

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

-----: :  
UNITED STATES OF AMERICA : :  
 : :  
-vs- : Case No. 1:12-cr-394  
 : :  
LORENE CHITTENDEN, : :  
Defendant. : :  
-----: :

V O L U M E 4 of 7

TRIAL TRANSCRIPT

April 28, 2014 - May 7, 2014

Before: Liam O'Grady, USDC Judge

And a Jury

APPEARANCES:

James P. Gillis and Julia Martinez,  
Counsel for the United States

John S. Davis and Frank D. Ross,  
Counsel for the Defendant

The Defendant, Lorene Chittenden, in person

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1           NOTE: The May 1, 2014 portion of the case begins in  
2 the absence of the jury as follows:

3 JURY OUT

4           THE COURT: All right. Good morning to all counsel.

5           MR. DAVIS: Good morning, Your Honor.

6           MR. ROSS: Good morning, Your Honor.

7           MR. GILLIS: Good morning, Your Honor.

8           MS. MARTINEZ: Good morning, Your Honor.

9           THE COURT: Any preliminary matters?

10          MS. MARTINEZ: I don't think so, Your Honor.

11          THE COURT: All right, let's get our jury.

12          NOTE: At this point the jury returns to the  
13 courtroom; whereupon the case continues as follows:

14 JURY IN

15          THE COURT: All right, please be seated.

16          Good morning, ladies and gentlemen. Did you all heed  
17 my request that you not do any investigation, or research, or  
18 talk to anybody? A nod of heads? All right. Thank you.

19          Next witness.

20          MS. MARTINEZ: Rony Ordonez, Your Honor.

21          NOTE: The witness is sworn.

22          RONY M. ORDONEZ, called by counsel for the United  
23 States, first being duly sworn, testifies through an  
24 interpreter as follows:

25          DIRECT EXAMINATION

1 BY MS. MARTINEZ:

2 Q. Good morning, sir.

3 A. Good morning.

4 Q. Thank you for being here this morning.

5 A. Thank you.

6 Q. If you will lean in just a little bit closer to the  
7 microphone so we can make sure to hear you. Thank you.

8 Q. Could you state your name.

9 A. Rony Miguel Ordonez.

10 Q. Mr. Ordonez, what city do you live in?

11 A. Sterling.

12 Q. Where do you work?

13 A. I work for Hertz Rental Car.

14 Q. What do you do at Hertz?

15 A. At the present time I am a security guard.

16 Q. How long have you worked at Hertz Rental Car?

17 A. In total it is about 35 years.

18 Q. At some point in the past did you buy a house on Applegate  
19 Drive in Sterling?

20 A. Yes.

21 Q. Did you work with a real estate agent when you bought that  
22 house?

23 A. Yes.

24 Q. Who was that real estate agent?

25 A. Rodolfo. I don't remember his last name clearly.

1 Q. Did you also at some point buy a house on Margate Court  
2 also in Sterling?

3 A. That was my first one.

4 Q. If we could show the witness, I think we can just do it on  
5 the screen, 49-D. I am going to show you a couple exhibits  
6 here on the screen. If we could go to page 2.

7 And at the bottom of this page, is that your  
8 signature, sir?

9 A. Allow me a second to get my glasses.

10 Q. Absolutely.

11 A. I'm ready now.

12 Q. Is that your signature, sir?

13 A. Yes.

14 Q. If we could go back to the first page.

15 Did you fill out this form?

16 A. It's not my handwriting.

17 Q. Could you take a look at, I think it will be easiest on  
18 paper, and we will do it in bulk to save some time. 49-H1, H2,  
19 H3, H4, H5, H6 and K.

20 COURT SECURITY OFFICER: What number was that,  
21 counsel?

22 Q. 49. Go ahead and take a look at those, sir. When you are  
23 ready, my question is going to be whether these are your  
24 documents.

25 Are those your documents, sir?

1 A. Yes.

2 Q. Are they generally employment or income records for you  
3 and your wife?

4 A. That is correct.

5 Q. Is the information in them accurate?

6 A. Yes.

7 MS. MARTINEZ: Your Honor, these are already entered,  
8 but the we will just put up one in the series so the jury can  
9 see what we are talking about.

10 THE COURT: Go ahead.

11 MS. MARTINEZ: Thank you.

12 BY MS. MARTINEZ: (Continuing)

13 Q. Now, if we could go to Exhibit 50-D. I will do that on  
14 the screen as well. And if we could go to the fourth page.

15 At the bottom of this page here, is that your  
16 signature, sir?

17 A. Yes.

18 Q. And if we could zoom out. Did you write this note on the  
19 top here?

20 A. I cannot write English, no.

21 Q. If we could go back to page 2. At the top.

22 Around the time of 2006 or 2007 or 2005, any time in  
23 that time period, did you make \$6,250 a month?

24 A. That's impossible.

25 Q. And in that same time period at any point did your wife

1 make \$3,333 a month?

2 A. I don't think so.

3 Q. Did you ever tell anyone that you made that much money in  
4 connection with getting these loans?

5 A. No. What I provided as proof were the checks I got.

6 MS. MARTINEZ: Thank you, Mr. Ordonez.

7 Thank you, Your Honor.

8 THE WITNESS: Thank you.

9 CROSS-EXAMINATION

10 BY MR. DAVIS:

11 Q. Good morning, Mr. Ordonez.

12 A. Good morning.

13 Q. You were a client of Mr. Rodolfo Balarezo?

14 A. Yes.

15 Q. Now, did Mr. Balarezo in connection with your transactions  
16 we've discussed, provide you with a lease agreement to sign?

17 A. No.

18 Q. Let me show you, if I could, Mr. Ordonez, Exhibit 49-Q?

19 Mr. Ordonez, would you like the translator to  
20 translate the top part of that document for you?

21 A. Please, yes.

22 THE INTERPRETER: How far would you like for me to  
23 go?

24 MR. DAVIS: Just to the landlord and tenant and then  
25 the rent part.

1                   NOTE: The interpreter reads the exhibit to the  
2 witness.

3                   THE INTERPRETER: Down to rent?

4                   MR. DAVIS: Yes.

5 BY MR. DAVIS: (Continuing)

6 Q. Mr. Ordonez, did you sign Exhibit 49-Q?

7 A. No, I did not sign this.

8 Q. Showing you the bottom of the document.

9 A. My initials are here.

10 Q. Do you recall whether you initialed it?

11 A. I remember having put my initials, but all of this was not  
12 written here when I was given this paper to sign.

13                   I recall having put my initials here, but when I did,  
14 all of this was not written here when I was given this paper to  
15 sign.

16 Q. And who gave you the paper to sign?

17 A. Mr. Rodolfo.

18 Q. Did you in fact have a lease with Ms. Figueroa?

19 A. I have never done such a contract.

20 Q. And is Ms. Figueroa related to you and your family?

21 A. She is my wife's sister.

22 Q. Thank you. Okay. Now, you refinanced the Margate Court  
23 property in March of 2006, is that correct?

24 A. It has never been refinanced. It is a condo, and it has  
25 never been refinanced.



1 Q. Okay. Did you purchase the Margate Court property in  
2 March of 2006?

3 A. Margate Court, that was bought on August 25, 2003.

4 Q. Okay. I don't mean to -- I want to show you 49-E.

5 A. I would rather look at it on paper.

6 Q. Please.

7 A. This form is not completed in any of its portions with my  
8 handwriting.

9 Q. Okay. Could we see the last page.

10 Do you recognize your handwriting on the last page?

11 A. This is my signature.

12 Q. Okay. And is that your wife's signature next to yours?

13 A. Yes, sir.

14 Q. And you will agree with me that the date on that purchase  
15 or transaction is March 24 of 2006, is that correct?

16 A. Yeah, but I would like to know which property this refers  
17 to because this paper is just a blank copy.

18 Q. I believe it's the Margate Court property, Mr. Ordonez.

19 A. I don't think so because this says 2006 here.

20 Q. Do you not recall whether you -- you don't believe you  
21 refinanced Margate Court in 2006?

22 A. It has never been refinanced. That property, I never  
23 touched it.

24 Q. And we're talking about 1037 Margate Court, Sterling,  
25 Virginia?

1 A. Yes, I know.

2 Q. After you bought it in 2003, did you get any mortgage loan  
3 for that property?

4 A. No.

5 Q. Do you know what the documents in front of you, 49-E,  
6 represent?

7 A. This is D, what I have here.

8 Q. I am sorry, I thought it was E.

9 A. This is D.

10 Q. E is on the screen. Mr. Ordonez, it's okay.

11 A. I cannot read it, sir, on the screen.

12 Q. All right.

13 THE INTERPRETER: The witness says he cannot read the  
14 screen.

15 Q. Okay. Can he be shown, please, 49-E in paper. 49-E, as  
16 in Edward.

17 And please ask for any translation if you need it,  
18 Mr. Ordonez.

19 A. That is what I was going to ask for.

20 THE INTERPRETER: What would you like the interpreter  
21 to translate?

22 Q. I really don't have questions about this beyond does he  
23 know anything about this transaction, about this property?

24 A. I have never done that.

25 Q. Okay. Let me ask you about May of 2006 because that's

1 when you did buy the property at Applegate Drive in Sterling,  
2 is that right?

3 A. That was on May 12, 2006.

4 Q. Okay. Now, do you remember working with Mr. Balarezo to  
5 get a mortgage loan to buy that property on Applegate Drive?

6 A. He is the real estate agent that helped me buy that  
7 property. I don't know whether he contributed anything to help  
8 me buy it, but I did put a down payment on the property.

9 Q. I am not asking about that. I am asking whether Mr.  
10 Balarezo helped you to shop for a mortgage to buy the Applegate  
11 property?

12 A. No.

13 Q. Mr. Ordonez, didn't you -- Mr. Balarezo had an office in  
14 Ashburn, Virginia, is that right?

15 A. Yes.

16 Q. Okay. And you wanted to get the best interest rate you  
17 could when you bought the Applegate property, right?

18 A. The interest rate at the time was around 6.5 percent.  
19 That was not a special rate. That was the going rate.

20 Q. I am not asking if it was a special rate. I'm asking if  
21 Mr. Balarezo helped you shop at different banks to find the  
22 best mortgage rate when you bought the Applegate property?

23 A. I did not talk with any banker.

24 Q. I'm not asking if you spoke to a banker. I am sorry, I  
25 don't mean to belabor it.

1                   Mr. Ordonez, you were interviewed by the FBI in  
2                   September of 2013, do you recall that?

3           A.     Yes.

4           Q.     Okay. Do you recall telling them, and I'm just asking if  
5                   you told them this, that Balarezo took you and your wife to his  
6                   office in Ashburn and they shopped for mortgages at a couple  
7                   different banks.

8                   THE INTERPRETER: Interpreter's clarification. Who  
9                   is they?

10          Q.     In context, it's Mr. Ordonez and his wife.

11          A.     Let me explain you something.

12          Q.     Please.

13          A.     This gentleman came to my home. We spoke about this deal.  
14                   We went to his office to sign some documents. I don't know  
15                   anything beyond that.

16          Q.     When you say this gentleman, do you mean Mr. Balarezo?

17          A.     Yes, sir.

18          Q.     But when you met with the FBI, you told them the truth,  
19                   right?

20          A.     As I am telling you now.

21          Q.     Okay. Last thing, Mr. Ordonez. Well, two last things.

22                   Do you see my client, Ms. Chittenden, at the end of  
23                   the table in the white sweater?

24          A.     Yes.

25          Q.     Have you ever met her before?

1 A. No.

2 Q. And the Applegate Drive property, do you still live there?

3 A. Yes, sir.

4 Q. And do you still pay the mortgage on that property?

5 A. Yes.

6 MR. DAVIS: Nothing further. Thank you, Mr. Ordonez.

7 THE COURT: Any redirect?

8 MS. MARTINEZ: No, Your Honor.

9 THE COURT: All right. You are excused with our  
10 thanks, sir. Please don't discuss the testimony you have given  
11 with anyone until our trial is over.

12 THE WITNESS: Thank you so much.

13 NOTE: The witness stood down.

14 THE WITNESS: Have a good day.

15 NOTE: The witness stood down.

16 MS. MARTINEZ: Felicito Arana.

17 NOTE: The witness is sworn.

18 FELICITO ARANA, called by counsel for the United  
19 States, first being duly sworn, testifies through an  
20 interpreter as follows:

21 DIRECT EXAMINATION

22 BY MS. MARTINEZ:

23 Q. Good morning, sir.

24 A. Good morning.

25 Q. Could you tell us your name.

1 A. Felicito Arana.

2 Q. Mr. Arana, could you lean in just a little closer to the  
3 microphone.

4 A. That's good?

5 Q. What city do you live in, sir?

6 A. Woodbridge, Virginia.

7 Q. I am so sorry, sir, but you are going to have to speak up  
8 just a little bit more so everyone can hear you. Okay?

9 A. That's good.

10 Q. Perfect, thank you. Where do you work?

11 A. I work for the public schools in the County of Fairfax,  
12 and the school is Great Falls Elementary School.

13 Q. What do you do for that elementary school?

14 A. I am a custodian/building supervisor.

15 Q. How long have you worked there?

16 A. About 23 years.

17 Q. At one point in the past did you own a property on  
18 Arkansas Street in Woodbridge?

19 A. Yes.

20 Q. And at some point did you refinance that property?

21 A. Yes.

22 Q. Did you also own a property on St. Charles Court in  
23 Stafford?

24 A. Yes.

25 Q. Did you refinance that one too?

1 A. Yes.

2 Q. Did you work with a real estate agent when you got those  
3 loans?

4 A. Yes.

5 Q. Who was that Realtor?

6 A. Rodolfo Balarezo.

7 Q. At the time you got these refinance loans, where were you  
8 working?

9 A. At the same place.

10 Q. Approximately how much money were you making at the time?

11 A. About 16 or 17.

12 Q. Does that include the income for you and your wife, or is  
13 that just your income?

14 A. I don't remember whether it was the two of us together.

15 Q. If we could go to 47-D.

16 I am going to show you a couple documents on the  
17 screen, sir, and the CSO is handing them to you in paper too.  
18 You can look wherever is easiest for you. If you can go to the  
19 bottom of page 3.

20 Is that your signature there, sir?

21 A. Page 3, let me see. Yes.

22 Q. If we could just zoom back on page 1. Or you can flip to  
23 page 1, whatever is easier.

24 Did you write any of this information here on this  
25 form?

1 A. No.

2 Q. Are you able to write in English, sir?

3 A. No.

4 Q. If you would go to page 2. At the top of the screen  
5 there.

6 When you got those loans, did you make over \$7,000 a  
7 month, or over \$84,000 a year?

8 A. I don't remember how much I was making at that time.

9 Q. Did you ever tell anyone -- did you ever give anyone false  
10 information about how much money you were making at that time?

11 A. No. I provided as proof my income tax returns and also my  
12 check stubs.

13 Q. If we go to the last page of this document.

14 Is that your signature at the bottom of the page,  
15 sir?

16 A. This one?

17 Q. Yes.

18 A. Yes.

19 Q. And on the rest of that page, did you write that note?

20 A. No.

21 Q. If we could go now to 48-D.

22 And on the last page of that document, is that your  
23 signature, sir?

24 A. Yes.

25 Q. And on page 2 of the document?



1 A. I think so.

2 Q. Did your income increase dramatically between the time  
3 when you got the two loans for the two properties?

4 A. No. It increased by a very small amount because raises  
5 were very small.

6 Q. Those two loans, they were very close in time together, is  
7 that right?

8 MR. DAVIS: Objection, leading. They are six months  
9 apart.

10 THE COURT: It is leading.

11 BY MS. MARTINEZ: (Continuing)

12 Q. Did you get those same two loans in the same year?

13 A. I don't remember if it was in the same year.

14 Q. If we could go a little further down on page 2.

15 When you got the second loan, did you have an account  
16 at Apple Federal Credit Union?

17 A. Yes.

18 Q. Did you have \$137,000 in it?

19 A. No.

20 Q. Did you ever tell anyone that you did?

21 A. No.

22 Q. Mr. Arana, do you still own either of these properties?

23 A. No.

24 Q. What happened to them?

25 A. They were sold as a short sale.

1 Q. About how long was that after you got these loans?

2 A. To tell you the truth, I don't remember exactly how much  
3 time past.

4 Q. Was it a long time or a shorter time, if you remember?

5 A. Several years.

6 MS. MARTINEZ: Thank you, Mr. Arana.

7 Thank you, Your Honor.

8 THE COURT: Cross-examination.

9 CROSS-EXAMINATION

10 BY MR. DAVIS:

11 Q. Mr. Arana, you refinanced the Arkansas Street property in  
12 March of 2006, is that right?

13 A. Yes.

14 Q. And did you get a cash payment out of that refinance in  
15 March of 2006?

16 A. Yes.

17 Q. And was that cash payment \$73,000 and some change?

18 A. What was that?

19 Q. I am sorry. Was it a little more than \$73,000 that you  
20 got as the cash out of your refinance in March of '06?

21 A. Yes.

22 Q. And what was the reason you had for refinancing the  
23 Arkansas Street property at that time?

24 A. To put down a down payment for the other house.

25 Q. You knew you wanted to buy another house, and that's why

1 you were refinancing Arkansas Street?

2 A. Yes, because I have a large family, and the house was very  
3 small for my entire family.

4 Q. Okay. And whose idea was it to refinance the Arkansas  
5 Street property to get the down payment for the other house?

6 A. I consulted Rodolfo to see whether I could refinance so  
7 that I could get a down payment for the other house.

8 Q. Now, when did you identify the St. Charles house as the  
9 house you wanted to buy?

10 A. When I began looking around for houses.

11 Q. And you bought the house in October of 2006, is that  
12 right?

13 A. I don't remember the month that it was exactly.

14 Q. Okay. Do you remember how long before you bought it when  
15 you first identified it as where you wanted to go?

16 A. What was that?

17 Q. Strike that. Not a good question.

18 Mr. Arana, did you keep the \$73,000 in an account  
19 between when you refinanced the Arkansas Street property and  
20 when you bought the St. Charles property?

21 A. I think so.

22 Q. So you had a lot of money in an account when you bought  
23 the St. Charles Street property in October of 2006, or whenever  
24 you bought it?

25 A. Yes, because I had already been told more or less how much

1 I needed to make the down payment for the other house.

2 Q. Okay. And, Mr. Arana, I would ask you to look at my  
3 client in the white sweater at the table.

4 Have you ever seen her before?

5 A. I don't remember.

6 Q. Oh, two other things. I wanted to show you 47-G, and move  
7 it in evidence.

8 THE COURT: Is there anything objection?

9 MS. MARTINEZ: No objection, Your Honor.

10 THE COURT: It is received.

11 MS. MARTINEZ: Your Honor, may I discuss something  
12 with counsel real quick?

13 THE COURT: Yes.

14 MR. DAVIS: I have a hard copy, Your Honor. It is a  
15 two-page document.

16 BY MR. DAVIS: (Continuing)

17 Q. So, Mr. Arana, you did work at Fairfax County Public  
18 Schools as of March 2006, right?

19 A. Yes.

20 Q. All right. And the second page of 47-G, please.

21 And you also worked at Holy Trinity Lutheran Church  
22 as of March 2006?

23 A. Yes.

24 Q. Okay. Thank you. And I wanted to show you also 48-G.  
25 And move it in evidence. 48-G, as in Giraffe, Gulf.

1 MS. MARTINEZ: No objection to moving it in, Your  
2 Honor.

3 THE COURT: It is received.

4 BY MR. DAVIS: (Continuing)

5 Q. Mr. Arana, you again were working at Holy Trinity  
6 Lutheran Church as of September of 2006, right?

7 A. Correct.

8 Q. And the other document in 48-G, you also were still  
9 working at Fairfax County Public Schools as of October 23,  
10 2006, right?

11 A. Correct.

12 MR. DAVIS: Nothing further. Thank you, Mr. Arana.

13 THE COURT: Any redirect?

14 MS. MARTINEZ: Briefly, Your Honor.

15 THE COURT: Yes.

16 REDIRECT EXAMINATION

17 BY MS. MARTINEZ:

18 Q. If we could go back to Exhibit 48-D, page 2. If you could  
19 look just right on the screen there.

20 Mr. Arana, even after you put the money from the  
21 Arkansas Street refinance in your bank account, I think you  
22 said that was approximately 60,000, is that right?

23 MR. DAVIS: Objection, leading.

24 THE COURT: I will allow it.

25 BY MS. MARTINEZ: (Continuing)

1 Q. Let me clarify. Mr. Arana, I believe you said that the  
2 money that you got from your first refinance was around 60,000,  
3 is that correct?

4 A. I don't remember how much the amount was.

5 Q. Why don't we just look at the document so I can make sure  
6 I am not stating the wrong number on it. Let's go to 48-C.

7 And at the bottom of that -- 47-C, I am sorry. I  
8 apologize, Your Honor. All right.

9 Do you see that number at the bottom of the screen on  
10 the left?

11 A. Yes.

12 Q. It says about 73,000?

13 A. I am sorry, what is this for, the 73,000?

14 Q. Do you see that number there?

15 A. I do, yes.

16 Q. Let's zoom out on the whole page. Or, Mr. Arana, the  
17 paper document is write there in that folder in front of you if  
18 you want.

19 And do you see that that's for your Arkansas Street  
20 property?

21 A. Yes.

22 Q. Does that sound like about how much money you made from  
23 that refinance, a little over 73,000?

24 A. It looks that way. I don't remember the exact amount, but  
25 it could be that, yes.

1 Q. Okay. If we could go back to 48-D on page 2.

2 Even once you put the money from that Arkansas Street  
3 refinance in your account, did you have \$137,000 in your Apple  
4 Credit Union Account.

5 A. I have never had that amount of money in the bank.

6 MS. MARTINEZ: Thank you. Thank you, Your Honor.

7 THE COURT: All right. You are excused, sir, with  
8 our thanks. Please don't discuss the testimony you have given  
9 with anyone until our trial is over.

10 THE WITNESS: Thank you so much.

11 NOTE: The witness stood down.

12 THE INTERPRETER: May the interpreter be excused?

13 THE COURT: Yes.

14 MS. MARTINEZ: Yes, ma'am.

15 THE COURT: Good morning, Mr. Gillis. Next witness.

16 MR. GILLIS: Good morning, Your Honor. We call Rocio  
17 Reyes, please. She may now be known as Rosie Trochez.

18 MR. DAVIS: Your Honor, we would request the same  
19 instruction. This is one of the noncharged loans.

20 THE COURT: All right. Ladies and gentlemen, this is  
21 a transaction that wasn't charged in the indictment. It is  
22 evidence that you may consider for intent, motive, lack of  
23 mistake.

24 NOTE: The witness is sworn.

25 ROCIO REYES, called by counsel for the United States,

1 first being duly sworn, testifies and states:

2 DIRECT-EXAMINATION

3 BY MR. GILLIS:

4 Q. Good morning, ma'am. Nice to see you again.

5 A. Good morning.

6 Q. Could you tell us your name, please.

7 A. My name is Rocio Reyes.

8 Q. And where do you live? What city do you live in?

9 A. Centreville.

10 Q. Where do you work?

11 A. The Cleaning Authority.

12 Q. What's your position there?

13 A. Operations manager.

14 Q. How long have you been in that position?

15 A. Ten years.

16 Q. Did you at one time buy a home on Betsy Ross Lane in  
17 Centreville?

18 A. Yes.

19 Q. Do you recall about when that was?

20 A. It was in 2006, November I would say.

21 Q. Did you use a real estate agent to buy your house?

22 A. Yes.

23 Q. And who was that?

24 A. Cristina Orozco.

25 Q. What company was she with, do you recall?



1 A. Re/Max.

2 Q. How did you happen to choose her?

3 A. I have a friend that knows her.

4 Q. Did you get a loan to buy the property?

5 A. Yes, I did.

6 Q. Whom did you get the loan from?

7 A. The first bank was Mason Mortgage, something like that.

8 Q. Was there a particular loan officer that you worked with?

9 A. I don't remember her name. Yeah, I don't.

10 Q. Okay. Did you meet with her face-to-face?

11 A. Yes.

12 Q. And do you see that person in court today?

13 A. I don't remember her face.

14 Q. I beg your pardon?

15 A. I don't remember her face. I think I --

16 THE COURT: Please come a little closer to the  
17 microphone.

18 A. Okay. I am sorry.

19 Q. Do you recall meeting with --

20 A. Is it her?

21 Q. I am sorry?

22 A. Is it her? That person.

23 Q. Point her out and tell us where she is sitting and what  
24 she is wearing.

25 A. She is sitting there, like the orange blouse and sweater.

1 MR. GILLIS: Okay. Your Honor, the record should  
2 reflect that she has not identified the defendant.

3 THE COURT: It will.

4 BY MR. GILLIS: (Continuing)

5 Q. Now, can you describe -- well, when you met -- did you  
6 meet with the FBI?

7 A. Yes.

8 Q. And this was a little while ago?

9 A. Three, if not longer, years ago.

10 Q. When you met with the FBI, do you recall describing the  
11 person to the agent?

12 A. Yes, I remember.

13 Q. Now, when you -- where did you meet with the loan officer?

14 A. At her office.

15 Q. And did you go with anyone?

16 A. The first time I went with Cristina.

17 Q. And what language did you and the loan officer speak in?

18 A. English.

19 Q. Does Cristina or did Cristina speak Spanish?

20 A. Yes.

21 Q. Do you recall what the loan officer asked you that first  
22 time?

23 A. She asked me where I work, how much I was making, how long  
24 I was working there. That's it. That's what I remember.

25 Q. Did you answer all of her questions truthfully?

1 A. Yes, I did.

2 Q. Were you working at the Cleaning Authority at that time?

3 A. Yes, I was.

4 Q. Do you recall about how much you were earning then?

5 A. Like \$29,000 a year.

6 Q. At some point did you give the loan officer information  
7 about your bank account?

8 A. I think I gave her -- she asked me for it, but I don't  
9 remember if I provided that. I provided the pay stubs for my  
10 job.

11 Q. You gave that to the loan officer?

12 A. Yes.

13 Q. Do you recall at that time -- well, first of all, do you  
14 recall, did you have a bank account at that time?

15 A. I did.

16 Q. Do you recall about how much money you had in the bank  
17 account?

18 A. I would say like from \$300 to a thousand dollars.

19 Q. Do you recall -- actually, I am sorry, let me -- I beg  
20 your pardon, Your Honor.

21 THE COURT: Yes, sir.

22 Q. Would you please look at Government's Exhibit 69-D.

23 Let me ask you this, Ms. Reyes. If you were to see  
24 the loan officer's name, do you think that you would recall it?

25 A. I don't know, but I will try.

1 Q. Okay. Now, first of all, on the second page of that, the  
2 bottom of that document, do you see your signature there?

3 A. Yes, it's there.

4 Q. And what's the date next to your signature?

5 A. November 2, 2006.

6 MR. GILLIS: Your Honor, I move to admit Government's  
7 Exhibit 69-D.

8 MR. DAVIS: No objection, subject to the prior  
9 objection.

10 THE COURT: It is received.

11 BY MR. GILLIS: (Continuing)

12 Q. Can you tell us first, do you recognize the handwriting on  
13 that first page?

14 A. Yes.

15 Q. And is part of it in your handwriting?

16 A. Part of it, yep.

17 Q. What part is in your handwriting, please?

18 A. My name at the top.

19 Q. Okay.

20 A. My signature. That's it.

21 Q. So your name at the top and your signature?

22 A. Yes.

23 Q. And the rest, do you recognize any of it?

24 A. No.

25 Q. At the top, do you see a fax stamp on that document?

1 A. Yes.

2 Q. Do you recognize that fax stamp?

3 A. Yes, my fax number at the office.

4 Q. All right. On the second page, it says there that you  
5 were earning \$7,450 per month when you bought your house.

6 Was that true?

7 A. No.

8 Q. Did you ever tell anyone at that time that you -- at the  
9 time that you bought your house, that you were earning that  
10 kind of money?

11 A. No.

12 Q. It also says that you had an account with \$162,000 in it.

13 Was that true?

14 A. No.

15 Q. Did you tell anyone that?

16 A. No.

17 Q. On the third page of that document, at the bottom, do you  
18 see your signature?

19 A. Yes.

20 Q. And below that, do you see a name handwritten there?

21 A. Yes.

22 Q. Let me ask you if -- and then if you would, please, look  
23 at Government's Exhibit 69-E.

24 I beg your pardon, it would be 69-E1, Mr. Ruelas.

25 On the third page of 69-E1 at the bottom there, do

1 you recognize your signature?

2 A. Yes.

3 MR. GILLIS: Your Honor, I move in 69-E1.

4 MR. DAVIS: No objection.

5 THE COURT: Received.

6 BY MR. GILLIS: (Continuing)

7 Q. Now, at the bottom -- or actually at the top of  
8 Government's Exhibit 69-E1 on the fourth page, do you see --  
9 well, first of all, do you see a name under where it is  
10 Interviewer's Name?

11 You can look at the screen on your left if that is  
12 easier.

13 A. Okay, I see it.

14 Q. Now, looking at that, does that refresh your memory as to  
15 the name of the loan officer that you met with?

16 A. Yes.

17 Q. And what is the name of the loan officer that you met  
18 with, ma'am?

19 A. It says Lorene Chit -- I cannot pronounce her name, her  
20 last name. I am sorry.

21 MR. GILLIS: Thank you very much. That's all I have,  
22 Your Honor.

23 THE COURT: All right. Cross-examination.

24 CROSS EXAMINATION

25 BY MR. DAVIS:

1 Q. Good morning, Ms. Reyes.

2 A. Good morning.

3 Q. Ms. Reyes, let's go back to 69-D, briefly.

4 This document was faxed from the Cleaning Authority,  
5 is that right?

6 A. Yes.

7 Q. So that was where you worked?

8 A. Yes.

9 Q. Okay. And the document identifies Jose Reyes with a phone  
10 number. Do you see that?

11 A. Yes, I see that.

12 Q. Next to, I think it is in the co-borrower's area. Do you  
13 see that?

14 A. I see that.

15 Q. Who is Jose?

16 A. Jose is my brother-in-law, my ex-brother-in-law.

17 Q. Your ex-brother-in-law?

18 A. Yeah.

19 Q. Now, what did he have to do with this transaction?

20 A. Nothing. Nothing.

21 Q. And did he -- what was Jose doing as of November 2006?  
22 Did he live in a house?

23 A. Yes.

24 Q. And where?

25 A. In Chantilly.

1 Q. And was he working then?

2 A. Yes.

3 Q. And was he part of this purchase?

4 A. No. No.

5 Q. Okay. Do you know or do you recognize the handwriting for  
6 Jose Reyes?

7 A. The handwriting?

8 Q. Yes.

9 A. No.

10 Q. You don't know who wrote Jose Reyes?

11 A. No.

12 Q. And do you know that you did not write it?

13 A. I know that it is not my handwriting.

14 Q. That's not your handwriting. Because we can see your  
15 handwriting where? At the top?

16 A. My name on top.

17 Q. Okay. And do you remember if when you sent this  
18 application, when you faxed it, it was before or after the  
19 first time you met with the loan officer who helped you with  
20 the loan?

21 A. I don't remember if it was the first time or second time.

22 Q. Okay. Now, you were dating someone named Trochez at that  
23 time?

24 A. Yes.

25 Q. And was that Eddie Trochez?



1 A. Yes.

2 Q. And is he now your husband?

3 A. Yes, he is.

4 Q. And did you and Eddie Trochez plan to move in together at  
5 the Betsy Ross Lane house when you bought it?

6 A. Yes.

7 Q. And that was your plan all along, right? I mean, when you  
8 applied for that loan, you were planning to move into the house  
9 with Eddie?

10 A. Yes.

11 Q. Okay. Now, why was the loan only in your name at that  
12 time?

13 A. He didn't have credit, Eddie.

14 Q. Eddie did not have credit?

15 A. No.

16 Q. How did you know that?

17 A. Because I had talked to him.

18 Q. You had talked to him?

19 A. Yeah.

20 Q. Okay. Did he, Eddie Trochez, have a Social Security  
21 number?

22 A. No.

23 Q. Okay. Did you plan to have Eddie assist with the mortgage  
24 payments after you moved into the Betsy Ross Lane house?

25 A. He will help pay.

1 Q. He would help pay, right?

2 A. Yes.

3 Q. Eddie works?

4 A. Uh-hmm.

5 Q. At that time -- and do please say yes or no. Don't say  
6 uh-hmm for the court reporter.

7 A. Okay.

8 Q. What was Eddie's job back in November of 2006, do you  
9 know?

10 A. Stone work, construction.

11 Q. Stone work, construction?

12 A. Yes.

13 Q. Was he making a good living?

14 A. Yes.

15 Q. Now, did you talk -- when you met with Cristina Orozco,  
16 your Realtor, did you tell Cristina about Eddie and that Eddie  
17 would be moving in and Eddie would help with the payments?

18 A. I will say yes, I talked to her about that, that he will  
19 move in with me.

20 Q. Okay. And did you talk with Cristina Orozco about Eddie's  
21 income, how much money Eddie was making?

22 A. I don't think she asked me because all the things, the  
23 papers are going to be on my name.

24 Q. Okay. Did you talk with Cristina Orozco about any  
25 savings, money that Eddie had in a bank account?

1 A. No.

2 Q. Did you know if he had any saved?

3 A. No, he didn't have.

4 Q. He didn't have any savings?

5 A. No.

6 Q. Okay. You recall that the first time you met with the  
7 loan officer, you met with Cristina Orozco, that is the three  
8 of you?

9 A. Yes, she took me there, to the loan officer.

10 Q. And did Cristina Orozco actually introduce you and sit  
11 with you and the three of you talk together?

12 A. Yes.

13 Q. Okay. And the second time you met with the loan officer,  
14 you just met on your own without Cristina?

15 A. Cristina wasn't there, I just dropped off some papers.

16 Q. Okay. You didn't really talk to the loan officer that  
17 time?

18 A. I don't recall.

19 Q. Okay. Now, at that time, November 2006, were you a United  
20 States citizen?

21 A. No.

22 Q. Have you since become a U.S. citizen?

23 A. I am now.

24 Q. Did you know whether at that time you needed to be a U.S.  
25 citizen in order to qualify for the loan you were receiving?

1 A. No, I didn't know.

2 Q. Sorry?

3 A. I didn't know.

4 Q. Did you ask Cristina?

5 A. No.

6 Q. Okay. Now, do you remember when the loan closed?

7 A. The exact date? It was in 2006, in November, but I don't  
8 remember the date.

9 Q. Okay. Now, do you remember that shortly before the  
10 closing for the Betsy Ross Drive house, you and Eddie asked  
11 that Eddie Trochez be added to the title since he was going to  
12 live at the property?

13 A. Yes.

14 Q. Tell the jury about that. What happened there and what  
15 occurred?

16 A. Well, the loan was under -- it will be under my name. And  
17 then I asked if he can be on the title.

18 Q. And who did you ask that?

19 A. I don't remember who I asked that to.

20 Q. Do you think it was Cristina?

21 A. I don't remember.

22 Q. I'm sorry, you don't remember?

23 A. I don't remember.

24 Q. Okay. And you were trying to get Eddie's name added to  
25 the title so that you would both be on the title?

1 A. Yes.

2 Q. And Eddie also wanted to do that, I assume? You weren't  
3 doing that without Eddie's knowledge?

4 A. He wanted to do it, yes.

5 Q. So what happened about that?

6 A. What happened? What do you mean by what happened?

7 Q. I mean, was Eddie's name added to the title?

8 A. It was, yeah, his name was added.

9 Q. Okay. And was that done with the loan officer or no?

10 A. I don't know that. Because when I went to sign, you know,  
11 to the closing, his name was on the title. So I don't remember  
12 how or who was talked to, but the name was added.

13 Q. Did Eddie Trochez also come to the closing now that his  
14 name was on the title?

15 A. He was there.

16 Q. So you both went together?

17 A. Yes.

18 Q. Okay. Was the loan officer you dealt with, was she at the  
19 closing?

20 A. I think she was there.

21 Q. You think she was?

22 A. I think she was there. All right, she was there. I don't  
23 remember. It has been a long time ago.

24 Q. A long time ago. Okay. So what happened with the house  
25 that you and Eddie Trochez bought?

1 A. I still live there, we still live there.

2 Q. You still live there now?

3 A. Yes.

4 Q. Okay. Are you making payments on the mortgage?

5 A. Yeah. I almost lost the house.

6 Q. Yes.

7 A. So I have to work with the banks for six months to modify  
8 the loan.

9 Q. And you got a loan modification?

10 A. Yes.

11 Q. All right. Now, Ms. Reyes, I wanted to ask you, had you  
12 worked with Ms. Orozco before that purchase to buy an earlier  
13 house?

14 A. I remember with my husband, we sold some houses, but  
15 before that, long before that.

16 Q. Okay. Do you remember -- when you say your husband, do  
17 you mean Eddie Trochez?

18 A. No, my ex-husband.

19 Q. What was his name?

20 A. Juan, Juan Reyes.

21 Q. Juan Reyes?

22 A. Yes.

23 Q. Okay. Do you remember qualifying, initially qualifying  
24 for a loan with Cristina Orozco back in 2003?

25 A. Qualifying?

1 Q. Yes.

2 A. I don't think we went that far.

3 Q. Do you recall a home inspection in that earlier house  
4 purchase?

5 A. What I recall is that we went and see some houses in  
6 Manassas.

7 Q. And this is with Cristina Orozco?

8 A. With Cristina, yes.

9 Q. And what happened?

10 A. I think the loan was not approved.

11 Q. Did you on that occasion provide Cristina with a false  
12 Social Security number?

13 A. What year was that? What year was that? I don't remember  
14 what year was that.

15 Q. 2003, approximately. I actually don't know. I think  
16 2003.

17 A. I don't know if it was the Social Security because we were  
18 working with getting our legal status here. So I don't know  
19 what we provide. I don't know if we had it by that time. We  
20 were getting our work permit.

21 Q. Do you remember that you gave information to Cristina  
22 Orozco back then that turned out not to be true and so the deal  
23 didn't go through?

24 A. I don't remember why, why it was that. I just don't  
25 remember.

1 Q. Was all the -- do you recall providing any information to  
2 Cristina Orozco, again back in '03, that turned out not to be  
3 true?

4 A. What I remember was we went and saw some houses, and that  
5 was it. For some reason, we didn't buy the house. Yeah, but I  
6 don't remember why.

7 Q. Okay. When you worked with Cristina for this house in  
8 2006, you had a valid Social Security number at that point,  
9 right?

10 A. Yes.

11 Q. And had that situation changed from what you had before?

12 A. What do you mean by that?

13 Q. That is, did you now have a valid Social Security number?

14 A. Yes.

15 Q. As of 2006?

16 A. Yes.

17 Q. So you knew you could buy a house then?

18 A. Yes.

19 Q. And you hadn't before, is that right?

20 A. I don't understand your question because that has nothing  
21 to do with this. I mean, with what we are here now.

22 Q. What do you mean?

23 A. Because I don't remember why, the reason why on 2003 you  
24 are saying I couldn't buy the house because of the information  
25 that I provided. So --



1 Q. I am just asking you what you remember.

2 A. If I remember giving her --

3 Q. Yes.

4 A. I probably did give her something. But what I remember is  
5 this. I went and saw some houses, that is what I remember,  
6 yes.

7 Q. But then it didn't go through?

8 A. I would say it didn't go through.

9 Q. Okay. If I may have just one moment.

10 Do you know what bank you obtained the loan  
11 modification with for Betsy Ross Lane, the house you live in  
12 still today?

13 A. That is now, the mortgage now? It is Chase.

14 Q. Chase?

15 A. Yes.

16 MR. DAVIS: Okay. Nothing further. Thank you.

17 THE COURT: Any redirect?

18 MR. GILLIS: No, Your Honor.

19 THE COURT: Ms. Reyes, you are excused at this time  
20 with our thanks. Please don't discuss the testimony you have  
21 given with anyone until our trial is over. All right. Have a  
22 good day.

23 THE WITNESS: Thank you.

24 NOTE: The witness stood down.

25 THE COURT: Next witness.

D.M. Best = Direct

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1 MR. GILLIS: Your Honor, we call David Best.

2 NOTE: The witness is sworn.

3 DAVID M. BEST, called by counsel for the United

4 States, first being duly sworn, testifies and states:

5 DIRECT-EXAMINATION

6 BY MR. GILLIS:

7 Q. Good morning, sir. Nice to meet you.

8 A. Hi.

9 Q. Mr. Best, could you tell us your full name, please.

10 A. David M. Best.

11 Q. What city do you live in, please?

12 A. Reston, Virginia.

13 Q. I understand you are retired now, but what have you done  
14 for a living?

15 A. I am retired Army. After that I started or started into  
16 accounting and tax. '91 set up a small business in Reston.  
17 Sold it at the end of '97, and been working sort of part-time  
18 ever since with the company that bought it.

19 Q. Okay. Did you prepare -- well, first of all, do you know  
20 Dennis Hite?

21 A. Yes.

22 Q. Did you prepare Mr. Hite's tax returns for the years, tax  
23 years 2002 through at least 2006?

24 A. There are some still out that haven't been prepared yet.  
25 I think we finished through '05. I am not positive about '06

1 off the top of my head. But, no, I don't think we did.

2 Q. Okay. If I could, let me ask you to look at Government's  
3 Exhibits 58-H1, H2, and H3.

4 COURT SECURITY OFFICER: I don't have the H series.  
5 I only through F.

6 MR. GILLIS: We have them here, Mr. Ruelas. The  
7 Court's indulgence, please.

8 THE COURT: Yes, sir.

9 THE WITNESS: Okay.

10 BY MR. GILLIS: (Continuing)

11 Q. Do you have those in front of you?

12 A. Yes, I do.

13 Q. Do those appear to be the completed tax returns for Mr.  
14 Hite for 2004, '5 and '6?

15 A. '4, yes. Not '5. The reason I say that -- wait a minute,  
16 it is self-employed -- yeah. No, I didn't sign it. So this  
17 wouldn't be the -- wouldn't be the one.

18 As a tax preparer, I am required to sign. And here  
19 is '06. And I haven't signed this one.

20 Q. May I have a moment?

21 Now, the 2004 one is one that you did prepare?

22 A. Yes.

23 Q. Do the 2005 and '6 ones appear to be from your office,  
24 although not complete?

25 A. Yes, I am pretty sure. I mean, there is nothing on here

1 that would tell me that. But, yes, I feel comfortable with  
2 that.

3 Q. Okay. Now, if you could look at Government's  
4 Exhibit 58-F, as in Foxtrot.

5 A. Okay.

6 Q. Do you recognize the letterhead on that document?

7 A. Yes.

8 Q. And did you sign it?

9 A. Yes.

10 Q. And does that concern Dennis Hite?

11 A. Yes, it does.

12 MR. GILLIS: Your Honor, I move in Exhibit 58-F.

13 MR. DAVIS: No objection.

14 THE COURT: It is received.

15 BY MR. GILLIS: (Continuing)

16 Q. Have you prepared similar letters for other clients?

17 A. Yes.

18 Q. And have you heard this kind of letter referred to as a  
19 CPA letter or a tax preparer letter?

20 A. Yes.

21 Q. Do you recognize the fax stamp at the top of that page?

22 A. Yes.

23 Q. Is that something that your fax machine puts on there?

24 A. Yes, this is our fax number.

25 Q. I beg your pardon?

1 A. This is our fax telephone number up at the top.

2 Q. Now, if you would look, please, at Government's  
3 Exhibit 60-Z1. Z as in Zulu, sir.

4 Can you tell us what that is.

5 A. This a fax from the desk of Ms. Chittenden.

6 MR. GILLIS: Your Honor, I move in Government's  
7 Exhibit 60-Z1.

8 THE COURT: Any objection?

9 MR. DAVIS: None.

10 THE COURT: It is received.

11 BY MR. GILLS: (Continuing)

12 Q. Now, do you recall, did this come from your files, sir?

13 A. Yes, it did.

14 Q. On the second page there is what appears to be a draft  
15 letter.

16 A. Yes.

17 Q. Did those two pages come together with the fax?

18 A. Yes. The fax heading on the very top are the same. Yes.

19 Q. Is that draft something you prepared?

20 A. Yes.

21 Q. That particular draft that they faxed to you, that is  
22 something that you prepared?

23 A. Yes. Wait a minute, let me see.

24 No, no, I did not prepare. I am sorry. I didn't  
25 read it all. This is a -- this is what they sent me.

1 Q. Okay.

2 A. Because I said here, please, give me something that is  
3 going to go --

4 Q. We will get there.

5 A. Yes.

6 Q. My question is only is that --

7 A. Yes. It's not from us.

8 Q. I'm sorry. Is that draft that is attached to that fax  
9 something that you prepared?

10 A. No.

11 Q. Now, you were interviewed by the FBI at some point?

12 A. Yes, I was.

13 Q. And did you recently review your file for Mr. Hite?

14 A. This portion of it, yes.

15 Q. Okay. And if we could look at the second page there. And  
16 in particular that last sentence.

17 Did Mr. Hite have a rental history for the previous  
18 two years of May 2006?

19 A. Not that I know of in those two years, no.

20 Q. Okay. Was there any rental income -- well, I withdraw  
21 that question.

22 If you could look at the third page.

23 Can you tell us what that is.

24 A. This is a fax cover sheet. It appears that it came to our  
25 office. Our office is the fax number 703-476-0714.

1 Q. Okay.

2 A. And it's from, it looks like the same people that page 1  
3 is.

4 Q. Thank you. On the first page in the lower left, there is  
5 a handwritten note there.

6 Do you recognize the handwriting?

7 A. Is that the one with Dave's signature?

8 Q. If you look to your left there, you will see it.

9 A. Yes, yes.

10 Q. Do you recognize that handwriting?

11 A. Yes, I do.

12 Q. Whose is it?

13 A. That's mine.

14 Q. Could you read that handwriting to the jury, please.

15 A. Lorene, I hope this --

16 Q. You can read it from there, but you have to speak into the  
17 microphone, sir.

18 A. Okay. I hope this will work. Let me know what they  
19 absolutely need if this doesn't work.

20 Q. I am sorry, what was the first part of that, the name that  
21 is written there?

22 A. Lorene.

23 Q. Now, off to the right there is a note there under the word  
24 "thanks."

25 Do you know what that is?

1 A. That's a note, that's an office administrative note that  
2 was originally mailed on the 26th of May, May 26, '06.

3 Q. That is a note from your office?

4 A. Yes, an administrative type note.

5 Q. All right. If you would, please, look at Government's  
6 Exhibit 60-Z2.

7 A. Yes, I have it.

8 Q. And can you tell us what that is.

9 A. This is a letter on the letterhead from our office. From  
10 our office.

11 Q. And is that associated with that note that you just read  
12 to the jury?

13 A. Yes. I would say most likely, right. This is -- this  
14 letter was what we --

15 Q. I am sorry. Can I just move in Government's Exhibit  
16 60-Z2.

17 THE COURT: Any objection?

18 MR. DAVIS: None.

19 THE COURT: All right. It is received.

20 BY MR. GILLIS: (Continuing)

21 Q. I am sorry, you were saying this letter is --

22 A. This letter would be in response to the last exhibit we  
23 had that you showed.

24 Q. And is that your signature on the document?

25 A. Yes, it is.



1 MR. GILLIS: One moment, Your Honor.

2 THE COURT: Yes, sir.

3 MR. GILLIS: Thank you, Your Honor.

4 THE COURT: All right. Cross-examination.

5 CROSS-EXAMINATION

6 BY MR. DAVIS:

7 Q. Good morning, Mr. Best.

8 A. Good morning.

9 Q. You have known Mr. Hite for a long time?

10 A. Yes, I have.

11 Q. When did you first meet him?

12 A. I first met him, and I don't remember how I got his name,  
13 but I got his name to come and help me take an oil tank out of  
14 my yard because I was switching from oil to electricity.

15 Q. Do you remember what year that was, roughly?

16 A. Yes, 2000, 2001.

17 Q. Do you remember when Mr. Hite became your regular client?

18 A. After that because people like that would come in and do  
19 work for me, I usually give them -- at that time I gave them a  
20 card saying I do accounting work, tax work. So it would have  
21 been after that.

22 Q. And you certainly started doing taxes for him for the 2002  
23 tax year?

24 A. I would say so, yes.

25 Q. What sort of business was Mr. Hite in over the years that

1 you worked for him?

2 A. He was in an oil service business. I think he collected  
3 oil, used oil and stuff, and sold that. He also did -- what he  
4 did for me was dug out tanks and installed tanks, I am sure  
5 both ways.

6 Q. Was he self-employed?

7 A. Yes, he was.

8 Q. He actually was self-employed, right?

9 A. Yes.

10 Q. And did he have a company?

11 A. Yes.

12 Q. What was the company called? It doesn't matter. But was  
13 it something about oil?

14 A. Yeah, I think it was Southern Oil, yeah.

15 Q. Was he the head of it?

16 A. Yes.

17 Q. Did he have employees?

18 A. Not that I know of, no.

19 Q. Okay. Did he -- go ahead.

20 A. No, not I knew. He didn't have any when he was there.

21 Q. And did he develop other business interests beyond the oil  
22 business? For instance, real estate?

23 A. Yes.

24 Q. Okay. And what was the real estate interest that he  
25 developed?

1 A. Well, basically he was buying property, is the best that I  
2 know, because it was a surprise when he came in with that. I  
3 don't mean that in any way really because he hadn't talked to  
4 me about it, is really what I meant. He started buying  
5 property and said he was going to fix them up and sell them.

6 Q. And was he buying single-family houses or other kinds of  
7 property?

8 A. I think most of them were single-family houses.

9 Q. All right. And did his taxes start getting complicated?

10 A. Yes, more complicated, yes.

11 Q. And you are a tax guy. What generally -- how did they get  
12 more complicated?

13 A. Well, there was more to do. There was a different portion  
14 of the tax return that had to be done. It was rentals. When  
15 he got them into rentals, if he got them into rentals. And  
16 keeping track of all the expenses that he had on those  
17 properties, what he paid for them, and all the closing costs  
18 and all this type of stuff, fix-up costs and everything.

19 Q. Okay. And did you understand that Mr. Hite was buying  
20 real estate to fix it up and rent it out?

21 A. That's what he told me when he came in, you know, for  
22 taxes and things like that. That's what he was planning to do.

23 Q. Okay.

24 A. To the best of my knowledge.

25 Q. When did Mr. Hite first start to buy rental property?

1 A. Oh, that's a long time ago. I would say 2006.

2 Q. Okay. Now, the first letter we see is 58-F. Do you see  
3 that document?

4 And that was one faxed by your office in May of 2005,  
5 right?

6 A. Yes.

7 Q. And Mr. Hite was your client and you had in fact done his  
8 tax return for the last two years. You were confirming he had  
9 been self-employed for those two years, right?

10 A. Yes.

11 Q. And do you remember where you faxed this particular  
12 letter?

13 A. To the best of my knowledge, it would have been the same  
14 location that we did the '06 letter.

15 Q. You think to George Mason Mortgage?

16 A. Yes, I think so.

17 Q. Let me ask you about that. Did you get to know any of the  
18 people at George Mason by name?

19 A. No, never met anybody.

20 Q. Did you know people well enough on the phone to recognize  
21 them?

22 A. Voice? No.

23 Q. Did you know a Loretta Micale or Micale, that M-i-c-a-l-e  
24 name you see?

25 A. Just through Mr. Hite. And what she needed, trying to get

1 what she needed to get the loan to go through. I didn't know  
2 her any other way.

3 Q. So you didn't know a Loretta to speak to on the phone at  
4 George Mason?

5 A. No.

6 Q. All right. Did you a Lorene Chittenden at George Mason?

7 A. Well, I guess I did, it was on there. But, I mean, just  
8 from the standpoint of business, need this, you know. Turned  
9 down in one letter type thing, you know, because we had a lot  
10 of that, not just with George Mason, but they want it said a  
11 different way, you know.

12 Q. I am asking about my client, who is wearing the white  
13 sweater at the end of the table. Do you recognize her?

14 A. No, I don't.

15 Q. You don't think you ever met her?

16 A. No.

17 Q. In your business dealings, might you write someone's first  
18 name on a note like the note we've seen, Lorene, without  
19 actually knowing them?

20 A. Yes.

21 Q. Just an informal polite way to correspond, right?

22 A. Yes.

23 Q. Okay. Is this letter that we're looking at, which is  
24 58-F, what you would call a self-employment letter?

25 A. Well, that's the big thing all brokers are looking for, is

1 if somebody is self-employed, they want to know that. But I  
2 wouldn't have called it that necessarily because they just  
3 wanted to know if we had done their tax returns and were they  
4 self-employed, state that.

5 Q. You said all brokers. Are you referring to mortgage  
6 brokers back in the mid-2000s?

7 A. Yes, that's when we had a lot of them, yes.

8 Q. And were there a lot of different mortgage brokers who  
9 were asking for self-employment letters?

10 A. Yes.

11 Q. And did this become a routine thing that you issued?

12 A. Not as routine as doing a normal tax return, but, yes, it  
13 wasn't unusual.

14 Q. Did Mr. Hite originally ask you for this letter?

15 A. Yes, to the best of my knowledge. It has been a long  
16 time.

17 Q. Anything that --

18 MR. GILLIS: Excuse me, which letter?

19 Q. This is 58-F, in May of 2005 that we're looking at.

20 That is Mr. Hite asked to you issue that for him?

21 A. Yes. Clients usually, when they went to get their loans,  
22 they were told we need this, so they would come back and give  
23 us permission to do it.

24 Q. Okay. You had many clients who would ask you for similar  
25 letters and you issued them, right?

1 A. Yes.

2 Q. And you weren't committing fraud when you did that, right?

3 A. Not that I know of.

4 Q. Okay. Now, let's look at 60-Z1. And that's a fax  
5 document from the desk of Lorene Chittenden, right?

6 A. Yes.

7 Q. And that's the one that has the note from you back to  
8 Lorene, I hope this will work, right?

9 A. Yes.

10 Q. Okay. And attached to that in the second page is the  
11 draft letter with the language in it for your signature, right?

12 A. Yes.

13 Q. And that shows it was faxed -- now this is a whole year  
14 later from the first letter we saw?

15 A. Yes.

16 Q. But it's faxed to you from the fax of Micale, do you see  
17 that?

18 A. Yes.

19 Q. May 25, 2006, right?

20 A. Yes.

21 Q. And then it has proposed language for you to use in doing  
22 a self-employment letter with rental history, right?

23 A. Yes.

24 Q. Was it unusual for you to get a letter from a broker, a  
25 mortgage broker -- strike that.

1           Was it unusual for you to get a fax with proposed  
2 language that your client needed for a loan to ask you to write  
3 and sign?

4       A.    At times it was. We would sent out a draft. We knew what  
5 -- basically we thought we knew what they wanted. But they  
6 would want a comma someplace else. Usually it didn't change  
7 anything, but it was different order or whatever, you know,  
8 that type thing.

9       Q.    So mortgage brokers -- and I am not just asking about  
10 George Mason Mortgage. But the mortgage brokers in Northern  
11 Virginia in the mid-2000s would send you draft language that  
12 they asked you to put in a letter, right?

13      A.    Sometimes they would. And sometimes I would ask them to  
14 because we had so much trouble getting it through, they kept  
15 changing --

16      Q.    So, there are cases where you appreciate it when they send  
17 you the language needed to get the loan through, right?

18      A.    It got to the point sometimes where if they didn't, we  
19 wouldn't -- we weren't going to keep changing it. You know,  
20 tell us what you have to have.

21      Q.    There is nothing fraudulent about a mortgage broker  
22 sending you draft language for a self-employment letter, right?

23      A.    If -- fraudulent? This bothered me because they had  
24 rental history in the past two years, which they didn't, and  
25 that bothered me. It bothers me even more now when I see it



1 than it did then.

2 So if you're putting things and want me to sign it  
3 that is not true, then I would say, yes, that's getting pretty  
4 shady.

5 Q. All right, let's go back with that. Mr. Hite was dealing  
6 with George Mason Mortgage on his own, right?

7 A. Yes.

8 Q. He was communicating to George Mason Mortgage in applying  
9 for a series of loans, right?

10 A. Yes.

11 Q. And he is telling George Mason Mortgage information about  
12 his own finances?

13 MR. GILLIS: Objection, Your Honor, there is no  
14 foundation for these questions.

15 THE COURT: Sustained.

16 BY MR. DAVIS: (Continuing)

17 Q. You were not involved, Mr. Best, and weren't expected to  
18 be involved in communicating information to George Mason  
19 Mortgage about all of his various financial dealings except for  
20 this one letter, right?

21 A. And tax returns.

22 Q. And you don't know if -- you don't know what Mr. Hite told  
23 George Mason Mortgage about whether he had rental income or  
24 not, right?

25 A. That's true.

1 Q. You did know he was buying a lot of property and hoping to  
2 fix it up and rent it, right?

3 A. Yes, he said he was. I didn't have any proof at that  
4 time, but he said he was buying property. He didn't say how  
5 many, didn't say how many he wanted to get or anything. He  
6 just said he wanted to do that.

7 Q. Okay. Now, what does rental history mean? What does that  
8 mean?

9 A. Well, I don't know. The only thing I did is that I  
10 changed, in the letter that went back signed by me, I changed  
11 that somewhat and didn't say had rental history in the past two  
12 years.

13 Q. Okay. And that -- sorry.

14 A. For me, that meant, with me signing this, this meant that  
15 in the past two years we had rental on his tax return. We  
16 actually had a form that says so-and-so, you know, we rented  
17 this place, or he rented this place, and here is what he took  
18 in, here is what he spent, here is the profit or loss.

19 Q. Okay. Showing you 60-Z2.

20 This is the letter that you sent back to George Mason  
21 Mortgage?

22 A. Yes.

23 Q. And it is changed slightly, right? It says he has been  
24 self-employed for the past two years, which he had been, and  
25 has had rental history. Which he had, right?

1 A. That's what he said, yes.

2 Q. Okay.

3 A. But not in my lifetime.

4 Q. Not in your lifetime?

5 A. You know, not since I worked with him.

6 Q. Okay. When you sent the letter, did you have any further  
7 conversation with George Mason Mortgage about exactly how it  
8 was worded?

9 A. No, I don't recall that.

10 Q. Did you call George Mason Mortgage and say, you know, I am  
11 troubled by exactly how I have worded this?

12 A. I am not sure, sir. I can't remember.

13 Q. Did you talk to Mr. Hite about the issue?

14 A. Most likely I did, yes.

15 Q. Do you remember what Mr. Hite told you?

16 MR. GILLIS: Objection, Your Honor, calls for  
17 speculation.

18 THE COURT: I will allow it.

19 MR. DAVIS: I am asking what he remembers, Your  
20 Honor.

21 THE COURT: If you recall.

22 THE WITNESS: I really don't.

23 THE COURT: All right.

24 BY MR. DAVIS: (Continuing)

25 Q. You certainly didn't deliberately commit fraud in

1 connection with this self-employment and rental letter,  
2 correct?

3 A. Not deliberately, no.

4 Q. Okay.

5 A. I had no interest in it.

6 Q. You have to have intent, right, to commit fraud?

7 A. I didn't have any interest in it. That was --

8 THE COURT: Wait for the next question. Thank you.

9 MR. DAVIS: If I may, Your Honor.

10 THE COURT: Yes, sir.

11 MR. DAVIS: Nothing further. Thank you, Mr. Best.

12 THE COURT: Any redirect?

13 MR. GILLIS: Yes, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. GILLIS:

16 Q. Mr. Best, when you were answering counsel's questions a  
17 little bit ago, what you said first was that Dennis Hite was  
18 buying property, and he said he was going to fix them up and  
19 sell them, correct?

20 A. Yes.

21 Q. And you were saying that the taxes would get more  
22 complicated if he had rentals, is that what you are saying? If  
23 he rented them?

24 A. If he rented them, it would make it, you know, more  
25 difficult because there are more things to do on the tax

1 return. But if he just fixed them up and sold them, it would  
2 also make it more difficult.

3 Q. And, sir, do you recall that we talked earlier?

4 A. Yes.

5 Q. We talked by phone?

6 A. Yes.

7 Q. You also talked with the FBI?

8 A. Yes.

9 Q. Do you recall talking with them in March of 2014?

10 A. Yes.

11 Q. And do you recall telling the FBI that Mr. Hite's plan was  
12 to fix up the properties and sell them?

13 A. That was -- at that time that's what I, you know, that's  
14 what I understood.

15 Q. And that's what you told them?

16 A. Yes.

17 Q. And when I spoke with you, do you recall saying that you  
18 could not recall checking -- whether you did check with Mr.  
19 Hite about any rental before you -- before you sent those  
20 letters?

21 A. No, I don't. I don't remember -- I know that I didn't  
22 like the way it was worded because we did not do any tax  
23 returns with rentals in them in the -- you know, since I have  
24 been doing taxes with him. But I cannot remember if I  
25 discussed it with -- you know, what I did then.

1 Q. Do you recall back on March 27 when you spoke with the  
2 FBI, that you told them that you cannot remember having a  
3 conversation with Hite about Hite collecting rental income? Do  
4 you recall that?

5 A. That, yes, I do.

6 MS. MARTINEZ: Thank you, Mr. Best.

7 MR. DAVIS: One question, Your Honor, recross?

8 THE COURT: Yes, go ahead.

9 RECROSS-EXAMINATION

10 BY MR. DAVIS:

11 Q. Mr. Best, Mr. Hite's 2005 tax return had not been  
12 completed as of May of 2006, right?

13 A. Most likely not, no.

14 Q. It is still not completed, right?

15 A. That could very well be true.

16 MR. DAVIS: Thank you.

17 MR. GILLIS: One question, Your Honor.

18 THE COURT: Yes, sir.

19 REDIRECT EXAMINATION

20 BY MR. GILLIS:

21 Q. Your 2005 and 2006 drafts for Mr. Hite do not reflect any  
22 rental income, is that true?

23 A. That's true.

24 Q. And your 2004 income tax return that you did prepare and  
25 did sign does not reflect any rental income, does it?

1 A. That's true.

2 THE COURT: All right. Thank you, sir. You are  
3 excused at this time. Please don't discuss the testimony you  
4 have given here today until our trial is over.

5 THE WITNESS: All right.

6 THE COURT: Have a good day.

7 NOTE: The witness stood down.

8 THE COURT: All right. We are going to take our  
9 mid-morning break now. I can see it is a little overdue. And  
10 we will come back in 15 minutes.

11 All right, you are excused. Thank you.

12 NOTE: At this point the jury leaves the courtroom;  
13 whereupon the case continues as follows:

14 JURY OUT

15 THE COURT: How many more witnesses does the  
16 Government have?

17 MR. GILLIS: Two, Your Honor.

18 THE COURT: All right. And you have got witnesses  
19 here today prepared to --

20 MR. DAVIS: We will have them at 2 o'clock, Your  
21 Honor.

22 THE COURT: 2 o'clock? That will be fine. Okay.  
23 All right, we're going to take 15 minutes.

24 NOTE: At this point a recess is taken; at the  
25 conclusion of which the case continues in the absence of the

1 jury as follows:

2 JURY OUT

3 THE COURT: All right. Ready for our jury?

4 MS. MARTINEZ: Yes, sir.

5 THE COURT: Joe, let's get our jury, please.

6 NOTE: At this point the jury returns to the  
7 courtroom; whereupon the case continues as follows:

8 JURY IN

9 THE COURT: Next witness, Mr. Gillis.

10 MR. GILLIS: Your Honor, the Government calls Dennis  
11 Hite, please.

12 NOTE: The witness is sworn.

13 DENNIS G. HITE, called by counsel for the United  
14 States, first being duly sworn, testifies and states:

15 DIRECT-EXAMINATION

16 BY MR. GILLIS:

17 Q. Good morning, sir. Good to see you again. Could you  
18 please tell us your name.

19 A. Dennis G. Hite.

20 Q. And what city do you live in, sir?

21 A. Gainesville.

22 Q. What do you do for a living?

23 A. Self-employed.

24 Q. What is it that you do?

25 A. I am in the oil service business.



1 Q. Did you at one time own property on Blackstone Road in  
2 Manassas?

3 A. Yes.

4 Q. Do you recall approximately when you purchased that  
5 property?

6 A. I think it was June of 2005.

7 Q. Did you get a loan to buy it?

8 A. Yes.

9 Q. From whom?

10 A. George Mason Mortgage.

11 Q. Did you deal with a particular loan officer?

12 A. Yes, Lorene Chittenden.

13 Q. Do you see Lorene Chittenden in the courtroom today?

14 A. Yes, I do.

15 Q. Could you point her out and describe what she is wearing.

16 A. Sitting at the end of the table here, she has a white  
17 sweater on.

18 THE COURT: I will note the identification of the  
19 defendant.

20 Q. What was your occupation at that time?

21 A. Still had the same business that I have now.

22 Q. Now, can you tell us about what your annual income was at  
23 the time in May 2005?

24 A. I think that year was approximately about \$75,000.

25 Q. And do you recall if the defendant asked you information

1 about your income?

2 A. Yes.

3 Q. Was there other information she asked for from you?

4 A. Basically at that time she asked if I could get some type  
5 of a letter from my accountant stating that my tax returns, he  
6 had prepared them for the last two years.

7 Q. And what did you do?

8 A. I contacted David Best and spoke to him. And he said he  
9 would. And I put those two together.

10 Q. Now, was all the information that you gave the defendant  
11 entirely truthful?

12 A. For what I put on the application that I filled out, yes.

13 Q. That's what I'm asking. The information that you  
14 communicated to the defendant, was it all truthful?

15 A. Yes.

16 Q. Now, around February 24, 2006, did you refinance the  
17 mortgage on Blackstone Road property?

18 A. Yes.

19 Q. Did you work with a loan officer?

20 A. Yes, I did.

21 Q. Who was that?

22 A. Lorene Chittenden.

23 Q. Did you sign a loan application for the Blackstone Road  
24 property?

25 A. Yes.

1 Q. Where did you get it?

2 A. It came from Lorene Chittenden.

3 Q. Do you recall how you received it?

4 A. It was faxed.

5 Q. And did you fill it out?

6 A. No, I did not.

7 Q. And did she give you any instructions when she faxed the  
8 application to you?

9 A. Just to sign it on the places with the Xs and to fax it  
10 back to her.

11 Q. And what did you -- sorry. And did you do that?

12 A. Yes.

13 Q. Did you review the application before you faxed it back to  
14 the defendant?

15 A. Not thoroughly, no.

16 Q. And was there -- up until this point, did you provide any  
17 additional income to the defendant in connection with this  
18 refinance?

19 A. No.

20 Q. Were there documents, any documents related to your bank  
21 accounts?

22 A. Yes, the two months prior bank statements.

23 Q. Now, if you would look, please, at Government's  
24 Exhibit 58-D, D as in Delta.

25 Do you have that with you?

1 A. Yes, I do.

2 Q. Can you tell us what that is?

3 A. That would be the loan application for the Blackstone Road  
4 property.

5 MR. GILLIS: Your Honor, I move in 58-D.

6 THE COURT: Any objection?

7 MR. ROSS: None, Your Honor.

8 THE COURT: It is received.

9 BY MR. GILLIS: (Continuing)

10 Q. Do you recognize the signature at the bottom of the first  
11 page?

12 A. Yes. That's mine.

13 Q. And do you see the date next to your signature?

14 A. Yes.

15 Q. Is that in your handwriting?

16 A. Yes.

17 Q. And if you would look, please, at the signatures on the  
18 third, fourth -- second, third, and fourth pages.

19 Are those also your signatures?

20 A. Yes.

21 Q. Now, do you recognize the handwriting on the rest of that  
22 document?

23 A. No, I do not.

24 Q. Do you see a fax stamp at the top of the application?

25 A. Yes.

1 Q. Can you tell us what that is.

2 A. That's my fax number that I had at that time.

3 Q. And whom did you fax this document to?

4 A. Lorene Chittenden.

5 Q. Does it show the date that you faxed it to her?

6 A. Yes, February 10, 2006.

7 Q. Now, in February of 2006 you had the same oil business?

8 A. Yes.

9 Q. And actually, if you could just describe a little more  
10 thoroughly what it is that you do with your company.

11 A. Basically I provide services for residents changing over  
12 from oil heat to a different heating source. Usually it is the  
13 removal of an old heating oil tank and/or doing a new  
14 installation.

15 Q. Okay. Now, in February of 2006, can you estimate what  
16 your income was at that time?

17 A. Not really. I don't have any information in front of me  
18 for that.

19 Q. Okay. Near the top of the second page it says that you  
20 were making in February 2006 \$19,000 per month, or close to  
21 120,000 -- pardon me, 240,000 a year.

22 Was that correct?

23 A. No, it was not.

24 Q. Did you ever tell the defendant that you were making that  
25 money at the time of this loan?

1 A. No, I did not.

2 Q. At the top of the third page of the application there is a  
3 schedule of real estate owned.

4 Do you see that there?

5 A. Yes, I do.

6 Q. Do you recognize the properties listed there?

7 A. Yes. The top property, Dumfries Road, was my residence.  
8 And the other two were properties that I had purchased.

9 Q. It says there that you were renting out the Blackstone  
10 Road property for 3,000 a month.

11 Was that true?

12 A. No, it was not.

13 Q. It says you were renting out the Sycamore Drive property  
14 for 2,100 a month.

15 Was that true?

16 A. No, it's not.

17 Q. Did you provide those rental figures to the defendant?

18 A. No, I did not.

19 Q. Were you renting out any of those properties in  
20 February 2006?

21 A. No, they weren't.

22 Q. If you would look at, please, Government's Exhibit 58-E1.

23 Does that appear to be the typed loan application  
24 relating to this loan?

25 A. Yes, it does.

1 Q. Do you recognize the -- Your Honor, I move in  
2 Exhibit 58-E1.

3 MR. ROSS: No objection, Your Honor.

4 THE COURT: It is received.

5 BY MR. GILLIS: (Continuing)

6 Q. If you would look at the third page of the application.

7 Do you see your signature there?

8 A. Yes.

9 Q. Does that look to be the final one that you signed at  
10 settlement?

11 A. Yes, it does.

12 Q. Do you see the schedule of real estate owned at the top of  
13 the third page?

14 A. Yes.

15 Q. Now, there it shows for the Sycamore Drive property, the  
16 \$2,100 per month that we saw in the handwritten application.

17 Do you see that?

18 A. Yes, I do.

19 Q. And then for the Blackstone Road property, however, it  
20 says now that the rental was zero, which is different from the  
21 handwritten application we looked at.

22 A. Yes.

23 Q. Did you have any discussion with the defendant concerning  
24 the rental income of the Blackstone Road property that would  
25 account for that change?

1 A. No, I did not.

2 Q. If you would look now at Government's Exhibit 58-F.

3 Do you recognize the letterhead there?

4 A. Yes.

5 Q. Does that appear to be the kind of letter the defendant  
6 asked you to get?

7 A. Yes, from my accountant.

8 Q. Did you ask Mr. Best to prepare that?

9 A. Yes, I did.

10 Q. Is that letter true?

11 A. Yes.

12 Q. If you would look now, please, at Government's  
13 Exhibit 58-M2.

14 That's an Operating Income Statement for the  
15 Blackstone Road property, is that right?

16 A. Yes.

17 Q. That's the address you see there for one of your  
18 properties?

19 A. Yes, I do.

20 MR. GILLIS: I move to admit Government's  
21 Exhibit 58-M2.

22 THE COURT: Any objection?

23 MR. ROSS: None, Your Honor.

24 THE COURT: It is received.

25 BY MR. GILLIS: (Continuing)



1 Q. Mr. Hite, did you prepare that document?

2 A. No, I did not.

3 Q. Did you know anything about it when you were dealing with  
4 the defendant about this loan?

5 A. No, I did not.

6 Q. It says there that you were renting the Blackstone  
7 property for 21,600 per year.

8 Was that true?

9 A. No, it was not.

10 Q. Did you ever tell the defendant that you were planning to  
11 rent the Blackstone property?

12 A. No, I did not.

13 Q. At some point did you purchase property on Dover Road in  
14 Warrenton, Virginia?

15 A. Yes.

16 Q. And that was around March 29, 2006?

17 A. Correct.

18 Q. Did you get a loan for that?

19 A. Yes, I did.

20 Q. Did you work with a loan officer?

21 A. Yes, I did.

22 Q. Who was that?

23 A. Lorene Chittenden.

24 Q. Did you fill out an application for that loan, do you  
25 recall?

1 A. No, I did not.

2 Q. If you would look, please, at Government's Exhibit 59.

3 Does that appear to be -- do you have it with you  
4 there?

5 COURT SECURITY OFFICER: 59-D?

6 Q. 59-D, yes. You are a step ahead of me, Mr. Ruelas.

7 Do you recognize the signature at the bottom of that  
8 page?

9 A. Yes, that's my signature.

10 Q. Is the date next to the signature in your handwriting?

11 A. No, it's not.

12 Q. Now, if you would compare the first page of Government's  
13 Exhibit 59-D to Government's Exhibit 58-D, the one on the  
14 bottom is in your handwriting, that date?

15 A. Yes.

16 Q. And the one on the top is not?

17 A. No, it's not.

18 Q. And do you recognize the handwriting on the rest of the  
19 application, 59-D?

20 A. No, I do not.

21 Q. In other words, the one for the Dover Road property?

22 A. No, I do not.

23 Q. On the second page there is the income figure again of  
24 \$19,000 per month. Did you ever tell the defendant or anyone  
25 else that you earned that in connection with this loan?

1 A. No, I did not.

2 Q. On the third page there is again the rental amount shown  
3 for the Blackstone and Sycamore properties.

4 Were those properties rented at the time?

5 A. No, they were not.

6 Q. Did you tell the defendant that they were rented?

7 A. No, I did not.

8 Q. Did you provide those income figures?

9 A. No, I did not.

10 Q. Is any of that in your handwriting?

11 A. No.

12 Q. At the bottom of the left -- pardon me, the bottom left of  
13 the third page, it says there that you met face to face with  
14 the defendant when this application was taken by her.

15 Was that true?

16 A. No, it was not.

17 Q. Had you met her up until this time?

18 A. No, I had not.

19 Q. If you would look, please, at Government's Exhibit 59-E1.

20 Do you have it there?

21 A. Yes.

22 Q. Is that the corresponding typed application?

23 A. Yes.

24 MR. GILLIS: Your Honor, I move to admit 59-E1.

25 MR. ROSS: No objection, Your Honor.

1 THE COURT: It is received.

2 BY MR. GILLIS: (Continuing)

3 Q. Would you look at the third page.

4 Do you see your signature there?

5 A. Yes, I do.

6 Q. Now, on the top of 59-E1 it says that you were renting the  
7 Blackstone Road property for \$3,000, while on the typed  
8 application for the Blackstone refi, which is Exhibit 58-E1 --  
9 if you want, you can look to your left there at that screen.

10 Comparing the two, do you see that one says that  
11 Blackstone was rented for 3,000, and the earlier one says that  
12 it was not rented?

13 A. Yes, I see that.

14 Q. I beg your pardon?

15 A. I see that.

16 Q. Did you have any discussion with the defendant concerning  
17 the rental income or lack of rental income for the Blackstone  
18 property that would account for that change?

19 A. No, I did not.

20 Q. The property was not rented?

21 A. No, it was not.

22 Q. May I have one moment, Your Honor?

23 THE COURT: Yes, sir.

24 Q. Now, when you first dealt with the defendant, did you own  
25 property then?

1 A. Yes.

2 Q. What did you own?

3 A. 4115 Dumfries Road, it was personal residence. And there  
4 was a second property on that property of 4127 Dumfries Road.

5 Q. Did anyone live there?

6 A. No. It was being remodeled for my mother.

7 Q. And what plans did you have for your mother's house?

8 A. For her to be able to move into it. That was going to be  
9 her home.

10 THE COURT: I need to you speak up a little bit, Mr.  
11 Hite.

12 A. Sorry.

13 Q. If you would like, you can pull your chair a little  
14 closer, perhaps.

15 I'm sorry, your plans for that house were?

16 A. That was where my mother was going to live.

17 Q. Now, if you could please tell me if you owned property on  
18 Blake Lane in Bealeton at one time?

19 A. Yes, I did.

20 Q. Did you refinance that in about June of 2006?

21 A. Yes.

22 Q. Sir, can you tell the jury what you were planning to do  
23 with these properties when you bought them?

24 A. I planned on trying --

25 Q. Not just this one, but these properties that we've talked

1 about and are going to talk about.

2 A. I planned on keeping a couple of them as rental  
3 properties, and then fixing and selling the other properties.

4 Q. Who was going to do the fixing?

5 A. Myself and other contractors I would bring in.

6 Q. Now, in the case of the Blake Lane property in Bealeton,  
7 Virginia, if you would look, please, at Government's  
8 Exhibit 60-D.

9 MR. ROSS: Pardon me one second, counsel.

10 Your Honor, this is one that is not in indictment.  
11 So if Your Honor would just advise the jury, please.

12 THE COURT: Again, as counsel stated, this is not  
13 part of the indictment. And you may consider it for purposes  
14 of showing motive, intent, lack of mistake. Thank you.

15 BY MR. GILLIS: (Continuing)

16 Q. Does that look like the loan application for the  
17 refinancing of Blake Lane?

18 A. Yes, it does.

19 MR. GILLIS: Your Honor, I move to admit 60-D.

20 MR. ROSS: No objection, Your Honor.

21 THE COURT: It is received.

22 BY MR. GILLIS: (Continuing)

23 Q. Mr. Hite, do you recognize your signature on the third  
24 page?

25 A. Yes, I do.

1 Q. And on the other pages as well?

2 A. Yes.

3 Q. I beg your pardon, could you go back to the -- up until  
4 this time, had you met face to face with the defendant?

5 A. No, I had not.

6 Q. Do you see the fax stamp at the top of the application on  
7 the fourth page?

8 A. Yes.

9 Q. Is that something that your fax puts on there?

10 A. Yes, it does.

11 Q. Whom did you fax this to?

12 A. Lorene Chittenden.

13 Q. And you faxed -- does it show on there or on one of the  
14 other pages what day you faxed it to her?

15 A. Yes, it looks like -- it's the 17th of '06 something -- I  
16 can't read it, the first part of it.

17 Q. Now, on that fourth page, your signature there, is that in  
18 your handwriting?

19 A. Yes, it is.

20 Q. And how about the date next to it?

21 A. Yes.

22 Q. Do you see some handwriting on that document?

23 A. Yes, I do.

24 Q. Was that handwriting there when you faxed it to the  
25 defendant?

1 A. Not that I remember, no.

2 Q. Is that in your handwriting?

3 A. No, it's not.

4 Q. Is that statement there true?

5 A. No, it's not.

6 Q. Now, on the fifth page there appears to be the same  
7 statement, but the date next to your signature is different.

8 Do you see that?

9 A. Yes, I do.

10 Q. Do you recognize the handwriting of that date?

11 A. No, I do not.

12 Q. Is it yours?

13 A. No.

14 Q. On the rest of that application, do you recognize the  
15 handwriting on the rest of it?

16 A. No, I do not.

17 Q. Apart from your signature?

18 A. Correct.

19 Q. Near the top of the third page of the loan application,  
20 there is a Schedule of Real Estate Owned.

21 Do you recognize the properties listed there?

22 A. Yes, I do.

23 Q. In addition to the Blackstone Road and Sycamore  
24 properties, it now says that you were renting out the Dover  
25 Road property for \$3,600 per month.



1 Was that true?

2 A. No, it was not.

3 Q. Is any of that in your handwriting?

4 A. No, it's not.

5 Q. And what do you know about those rental figures there?

6 A. Absolutely nothing.

7 Q. What did you tell the defendant about renting these  
8 properties?

9 A. There was never a discussion.

10 Q. Okay. Now, if you would look, please, at Government's  
11 Exhibit 60-E1.

12 Can you tell us what that is?

13 A. That was an application for a second mortgage on the Blake  
14 Lane property.

15 Q. Is that the same loan we've just been talking about?

16 A. Previously, yes.

17 MR. GILLIS: Your Honor, I move 60-E1.

18 THE COURT: Any objection?

19 MR. ROSS: None, Your Honor.

20 THE COURT: It is received.

21 BY MR. GILLIS: (Continuing)

22 Q. Look at the third page, if you will.

23 Do you see your signature there?

24 A. Yes, I do.

25 Q. And do you recall when you signed that?

1 A. It looks like it's June 13, 2006.

2 Q. At settlement?

3 A. Yes.

4 Q. Now, do you see at the top of that page the Schedule of  
5 Real Estate Owned?

6 A. Yes.

7 Q. And the list then continues on to the fifth page or the  
8 last page, do you see that?

9 A. Yes, I do.

10 Q. So now in addition to the Blackstone Road, Sycamore, and  
11 Dover Road properties, it says that you were renting out the  
12 Blake Lane property for \$1,259.

13 What did you tell the defendant about that?

14 A. There was no discussion about the rentals.

15 Q. Did she -- did you provide her with this information?

16 A. No, I did not.

17 Q. What information did you provide her about renting these  
18 properties?

19 A. Nothing.

20 Q. And what did you tell the defendant about what your plans  
21 were for renting these properties?

22 A. Well, I was still in the process of working on these  
23 properties and hadn't made up my mind which ones were going to  
24 be kept or sold.

25 Q. Now, the exhibit -- pardon me, Exhibit 60-F.

1 Can you tell us what that is.

2 A. It looks like --

3 Q. Can you recognize the letterhead on the document?

4 A. Yes, it came from David Best, my accountant.

5 MR. GILLIS: Your Honor, I move in 60-F.

6 MR. ROSS: No objection, Your Honor.

7 THE COURT: Received.

8 BY MR. GILLIS: (Continuing)

9 Q. Now, any time around this loan, did you see this document?

10 A. No, I did not.

11 Q. Did you ask Mr. Best to write the letter for you?

12 A. I don't remember asking him, no.

13 Q. Well, did you ask him to write a letter saying that you  
14 had rental history?

15 A. No, I did not.

16 Q. Was that true in May of 2006, did you have any rental  
17 income?

18 A. No, I did not.

19 Q. Did you have any discussion -- well, let me ask it this  
20 way.

21 What discussion did you have with the defendant about  
22 getting a letter that would say that you had rental income?

23 A. I don't recall any discussion.

24 Q. Did she ever tell you that she was going to ask Mr. Best  
25 for such a letter?

1 A. No, she did not.

2 Q. Please look at Government's Exhibit 61-D.

3 Does that appear to be a loan application for a  
4 refinance of the Dumfries Road property?

5 A. Yes, it is.

6 MR. GILLIS: Your Honor, I move in 61-D.

7 MR. ROSS: No objection, Your Honor.

8 THE COURT: Received.

9 BY MR. GILLIS: (Continuing)

10 Q. Now, on the second page -- first of all, if we go to the  
11 top of that for a second.

12 Is that your fax signature?

13 A. Yes, it is.

14 Q. Now, what's the date of this loan application?

15 A. September 26, 2006.

16 Q. And on the second page at the top, now it shows your  
17 income to be \$29,000 per month.

18 Was that true?

19 A. No, it's not.

20 Q. Did you ever tell that to the defendant?

21 A. No, I did not.

22 Q. If we could look, please, at Government's Exhibit 61-E1.

23 Do you have that in front of you?

24 A. Yes, I do.

25 Q. Does that appear to be the typed loan application that you

1 signed at settlement?

2 A. Yes.

3 MR. GILLIS: Your Honor, I would move in 61-E.

4 MR. ROSS: No objection, Your Honor.

5 THE COURT: It is received.

6 BY MR. GILLIS: (Continuing)

7 Q. Now, on the second page of that document at the top it  
8 shows your income to be \$20,000.

9 Did you ever have any conversation with the defendant  
10 about your income going from 29,000 to 20,000 --

11 A. No, I did not.

12 Q. -- per month? Was either one of those figures true?

13 A. No.

14 Q. Now, there are on the third page at the top and then  
15 carrying over, a Gross Rental Income column there for six  
16 properties, all showing gross rental amounts.

17 Do you see that on that page and on the continuation  
18 page?

19 A. Yes.

20 Q. To be clear, did you own all of those properties?

21 A. Yes.

22 Q. Okay. Were you renting any one of them?

23 A. No, I was not.

24 Q. Did you ever tell the defendant that?

25 A. No.

1 Q. Could you look, please, at Government's Exhibit 62-D.

2 Does that appear to be a loan application for the  
3 refinance of Dumfries Road?

4 A. The 4127 Dumfries Road property, yes.

5 Q. That's correct. Okay, these are the properties that you  
6 told us about, the one that you were living in and the one that  
7 you planned for your mom to live in?

8 A. Correct.

9 Q. Okay. And so, do you recall why you were refinancing  
10 these at the time?

11 A. Both properties previously were on one parcel of land. To  
12 separate the two, I had to get mortgages for both properties.

13 Q. And what was the point of separating the two parcels?

14 A. In case something was to happen to me, that the other  
15 property would go transfer over to my mother.

16 Q. Now, did this loan take place at the same time then as the  
17 other Dumfries Road property?

18 A. Yes, same day.

19 Q. Okay. I'm sorry, between these two, if we could refer to  
20 them, the one, the first one that we talked about, was that for  
21 your mom or --

22 A. 4115 was my primary residence.

23 Q. Okay. I am only trying to stop referring to the exact  
24 address, but if it's easier for you and if it is all right with  
25 you, you can certainly say it.

1 And then the second one, that was for your mom?

2 A. Correct.

3 Q. Okay. And these were -- these loan applications, do you  
4 recall, did you submit them at the same time?

5 A. Yes.

6 Q. And who was the loan officer for those two loans?

7 A. Lorene Chittenden.

8 Q. If you would look, please, at Government's Exhibit 62-D.

9 Do you have that in front of you?

10 A. Yes.

11 MR. GILLIS: Can I move that into evidence, Your  
12 Honor.

13 THE COURT: Yes. Any objection?

14 MR. ROSS: No, sir.

15 THE COURT: It is received.

16 BY MR. GILLIS: (Continuing)

17 Q. Now, if you would look at the fax -- let's say at the fax  
18 signature of that one first.

19 If it is easier to have it on paper, I can ask you to  
20 look at 61-D, or you can look at it on the screen.

21 A. I have 62-D here, and it is my fax stamp on it.

22 Q. Okay. Does it have a page number on it at the end of the  
23 fax stamp there?

24 A. Page 1.

25 Q. Okay. And for the 61-D loan application, the handwritten

1 loan application, does that have -- 61-D.

2 Do you notice that the time stamp and the page --  
3 does it appear to be that you faxed these all at one time?

4 A. Yes, it does.

5 Q. And whom did you fax them to?

6 A. Lorene Chittenden.

7 Q. On the last page of 62-D -- first, is that your signature  
8 at the bottom?

9 A. Yes, it is.

10 Q. Okay. And the rest of the handwriting there, is any of  
11 that in your handwriting?

12 A. No, it's not.

13 Q. Was any of that there when you faxed it to the defendant?

14 A. Not that I recall.

15 Q. It shows that those two properties listed there have rent  
16 of \$2,500 and \$3,500.

17 Is that true?

18 A. No, it's not.

19 Q. Did you give any of that information to the defendant?

20 A. No, I did not.

21 Q. On page 3, there is some additional rental properties at  
22 the top there.

23 Any of that in your handwriting?

24 A. No, it is not.

25 Q. Did you provide any of those figures to the defendant?



1 A. No, I did not.

2 Q. Now, if you would look and compare that part of 61-D to  
3 the same part -- pardon me, of 62-D -- if we can do through the  
4 magic of technology here.

5 Do you see -- and maybe we can leave the fax stamp  
6 and signature in it.

7 Do you see there that on the one at the top, the one  
8 that has the page 9, the Gross Rental Income figures there --  
9 that column is not filled in. Whereas on the one on the  
10 bottom, the Gross Rental Income is provided there for three of  
11 the properties.

12 Now, first, you've already told us that none of these  
13 is accurate, is that right?

14 A. Correct.

15 Q. Did you have any discussion about any of this -- actually,  
16 let me ask it this way.

17 What discussion did you have with the defendant that  
18 would account for there being these figures in here in one  
19 where there wasn't in the other?

20 A. I had no conversation with her about it.

21 Q. And none of this is in your handwriting?

22 A. No, it is not.

23 Q. Could you look at 62-E1.

24 62-E1, does that appear to be the typed loan  
25 application for the property we were last discussing?

1 A. Yes, it does.

2 MR. GILLIS: Your Honor, I move in 62-E1.

3 THE COURT: Any objection?

4 MR. ROSS: No objection, Your Honor.

5 THE COURT: It is received.

6 BY MR. GILLIS: (Continuing)

7 Q. Is that your signature on the third page?

8 A. Yes, it is.

9 Q. At the top, do you see that the Blake Lane gross rent is  
10 shown to be \$2,500?

11 A. Yes, I see that.

12 Q. Now, if I could ask you to look, please, at Government's  
13 Exhibit 60-E1.

14 And if I could ask my colleague, Ms. Porter, to put  
15 that up there as well.

16 So for 60-E1, which we were discussing earlier, do  
17 you see that the Blake Lane gross rental is shown to be \$1,259?

18 A. It's not on this page.

19 Q. Well, that's a good point, it's not on that page. I beg  
20 your pardon, my mistake. And I apologize to you as well, Ms.  
21 Porter.

22 What I would like is if you could look, please, at  
23 62-E1, the third page, and 60-E1, the fifth page.

24 Okay. Now, on 60-E1, which we were talking about for  
25 one of your loans, it shows the Blake Lane gross rent to be

1 \$1,259.

2 Do you see that?

3 A. Yes, I do.

4 Q. And then on 62-E1, at the top, it shows the Blake Lane  
5 gross rental to be 2,500.

6 Do you see that?

7 A. Yes, I do.

8 Q. And what conversations did you have with Ms. Chittenden  
9 that would account for the difference in those two alleged  
10 rental figures?

11 A. We never had a conversation.

12 Q. Ever tell her any of those figures?

13 A. No, I did not.

14 Q. And was either of those figures true?

15 A. No, it was not.

16 Q. Indeed, was Blake Lane being rented at that time?

17 A. No, it was not.

18 Q. Were any of these properties being rented at that point?

19 A. No, they weren't.

20 Q. Now, at some point did you get a second mortgage on this  
21 Dumfries Road property?

22 A. Yes, I did.

23 Q. Look at Government's Exhibit 65-D, if you would, please.

24 MR. ROSS: Pardon me, Your Honor. If I may, this is  
25 another one that is not the indictment, please.

1 THE COURT: All right. Again, ladies and gentlemen,  
2 this is not part of the indictment, so you may consider it for  
3 purposes of intent, motive, lack of mistake. Thank you.

4 BY MR. GILLIS: (Continuing)

5 Q. Can you tell the jury what that is, please.

6 A. This is a second mortgage for the 4127 Dumfries Road  
7 property.

8 Q. Do you see the fax stamp at the top of that -- well, let's  
9 start with the top of the first four pages there.

10 I am sorry, I am reminded that I need to move this  
11 in, Your Honor.

12 THE COURT: Any objection?

13 MR. ROSS: No, Your Honor.

14 THE COURT: It is received.

15 BY MR. GILLIS: (Continuing)

16 Q. If we can just look at the top fax stamp there.

17 That is your fax signature?

18 A. Yes, it is.

19 Q. Whom did you fax this loan application to?

20 A. Lorene Chittenden.

21 Q. Now, looking at the last page there, do you see, first of  
22 all, that there is -- is your signature there on that last  
23 page?

24 A. No, there is not.

25 Q. And looking at the whole document, is there any fax stamp

1 on that document?

2 A. No, there is not.

3 Q. Now, looking at the third and last -- before we leave  
4 there, is any of this in your handwriting?

5 A. No, it's not.

6 Q. Now, looking at the third and last pages, it shows that  
7 you now have seven properties being rented, each with gross  
8 rental figures.

9 Any of that true?

10 A. No, it is not.

11 Q. Any of that something that you told the defendant?

12 A. No, I did not.

13 Q. Any of that in your handwriting?

14 A. No, it is not.

15 Q. Were any of these being rented?

16 A. No, they weren't.

17 Q. The Court's indulgence.

18 THE COURT: Yes, sir.

19 Q. Could you go back to 60-D, please, that last page. Can  
20 you read that to the jury.

21 A. To whom it may concern: The moneys in my bank account are  
22 funds I received from my income. Several customers pay  
23 quarterly and have very large paid receipts. After all  
24 expenses, I issue myself a bonus. And these bonuses are large  
25 and are the reason for the fluctuation in my accounts.

1 Q. Mr. Hite, what kind of bonuses do you issue yourself?

2 A. None.

3 Q. No bonuses in your job?

4 A. Never.

5 Q. You are a lousy employer?

6 A. I know.

7 Q. How about the several customers who pay quarterly and have  
8 very large receipts, paid receipts.

9 A. I have no customers like that.

10 Q. Did you give any of this information to the defendant?

11 A. No, I did not.

12 Q. Could you look at Government's Exhibit 63-D, please.

13 I beg your pardon, I have the wrong exhibit there.

14 Could you look, please, at Government's Exhibit 64-D.

15 MR. ROSS: Your Honor, one more time, this is one  
16 that is not in the indictment.

17 THE COURT: This also is not part of the indictment,  
18 but it may be considered by you for motive, intent, lack of  
19 mistake.

20 A JUROR: Your Honor --

21 THE COURT: Yes, sir.

22 A JUROR: What's the third thing you are saying?

23 THE COURT: Lack of mistake.

24 A JUROR: Lack of mistake?

25 THE COURT: Yes. And there will be an instruction at

1 the close of the case which will more fully explain the  
2 admissibility of this information.

3 Go ahead, Mr. Gillis.

4 MR. GILLIS: Thank you, Your Honor.

5 BY MR. GILLIS: (Continuing)

6 Q. Did you refinance property that you owned on Oak Shade  
7 Road in Bealeton?

8 A. Yes, I did.

9 Q. Could you look at 64-D, please.

10 Do you have that in front of you?

11 A. Yes, I do.

12 Q. Does that look to be a loan application for that  
13 refinance?

14 A. Yes, it does.

15 Q. Look, please, at the fifth page of that document.

16 And while he is doing that, Your Honor, I would move  
17 in 64-D.

18 MR. ROSS: No objection, Your Honor.

19 THE COURT: It is received.

20 BY MR. GILLIS: (Continuing)

21 Q. I don't think we need to zoom in on anything on the  
22 document at this point, but looking at the top of it, do you  
23 see your fax signature there?

24 A. Not on the last page, no.

25 Q. No, exactly, not on the last page, but on the other four

1 pages?

2 A. Yes.

3 Q. And you faxed that on February 7, 2007?

4 A. Yes, I did.

5 Q. Whom did you fax that to?

6 A. Lorene Chittenden.

7 Q. Now, on that fifth page where you just observed that there  
8 was no fax signature, is any of that in your handwriting?

9 A. No, it is not.

10 Q. Your name is written at the top there.

11 Is that your signature?

12 A. No, it's not.

13 Q. Is any of the handwriting on this in yours?

14 A. No, it is not.

15 Q. Could you like at Government's Exhibit -- I beg your  
16 pardon, Your Honor.

17 Now, did you also at some time purchase property on  
18 Kentwood Lane?

19 A. Yes, I did.

20 Q. Could you look, please, at Government's Exhibit 66-D.

21 At the top of 66 -- well, first of all, tell jury  
22 what 66-D is, if you could.

23 A. It is a loan application, but it's got TBD on the line, I  
24 guess that is to be determined.

25 Q. Do you see at the top a fax signature of February 7, '07?



1 A. Yes, I do.

2 Q. Could you compare that to the fax signature for 64-D, as  
3 in Delta.

4 Do you have the two of them in front of you there?

5 A. No, I do not.

6 Q. Let me ask you to look first at 66-C1.

7 Can you tell us what that is.

8 A. This is the typed application for the Kentwood Lane  
9 property.

10 Q. Can you -- I beg your pardon. Mr. Ruelas, I am mumbling  
11 again. Could you please give him 66-C1, 66 Charlie 1.

12 Do you have 66-C1?

13 A. Yes, I do.

14 Q. All right. Is that -- tell us what that is, if you would.

15 A. It is the Settlement Statement.

16 Q. For what property?

17 A. That would be the Kentwood Lane property.

18 Q. Okay. And what is the -- what was the date of settlement?

19 A. March 5, 2007.

20 Q. All right. Now, Mr. Ruelas, could he look, please, at  
21 Government's Exhibit 64 Charlie 1.

22 COURT SECURITY OFFICER: I have 64-C, no 1.

23 Q. You are right, yes, sir.

24 Tell us what that is, please.

25 A. Settlement Statement for the Oak Shade Road property.

1 Q. And what's the date of that settlement?

2 A. February 23, 2007.

3 Q. About a week or so before the one we just looked at --

4 A. Yes, approximately.

5 Q. Okay. Do you recall if you submitted one or more than one  
6 application for those two loans?

7 A. No, I do not.

8 Q. Does the 66-D application with the TBD on it, does that  
9 appear to be the application for this --

10 MR. ROSS: I think it is leading at this point, Your  
11 Honor.

12 THE COURT: It is. Sustained.

13 MR. GILLIS: Your Honor, at this time I would move in  
14 64-C and 66 Charlie 1.

15 THE COURT: Any objection?

16 MR. ROSS: No objections, Your Honor.

17 THE COURT: They are received.

18 BY MR. GILLIS: (Continuing)

19 Q. Now, look, if you will, at the fax signature for the top  
20 of 66 Delta.

21 A. That's my fax signature.

22 Q. All right. And if you would look at the top of the fax  
23 signature for 64 Delta.

24 A. Yes, that's my fax signature.

25 Q. Actually comparing the two, are they identical?

1 A. Yes, they are.

2 Q. Are your signatures on the first page identical?

3 A. Yes, they are.

4 Q. On 66 Delta, do you see your signature on the third page  
5 of that?

6 A. Yes, I do.

7 Q. And do you see -- and if you compare that signature to the  
8 signature on 64 Delta on the third page, do those appear to be  
9 identical?

10 A. Yes, they do.

11 MR. GILLIS: Okay. Your Honor, I move in  
12 Government's Exhibit 66 Delta.

13 THE COURT: Any objection?

14 MR. ROSS: No objection, Your Honor.

15 THE COURT: It is received.

16 BY MR. GILLIS: (Continuing)

17 Q. Now, on the first page of 66-D, and comparing that to  
18 64-D, apart from the fact that the property address has  
19 changed, and the figures above it regarding the loan, does that  
20 appear to be the same document that you faxed on February 7,  
21 2007?

22 A. Yes, it does.

23 Q. And whom did you fax that to, please?

24 A. Lorene Chittenden.

25 Q. And on that last page, those rental figures there -- first

1 of all, that page has no fax stamp on it?

2 A. No, it does not.

3 Q. As do the others?

4 A. Yes, all the others have a fax stamp.

5 Q. Any of that -- any of that in your handwriting?

6 A. No, it is not.

7 Q. Would you please take a look at Government's Exhibit 67-D.

8 Tell us, if you would, what that is.

9 A. That's a loan application with TBD on it, to be  
10 determined.

11 Q. And what is the date of that application?

12 A. It looks like it is 2/7/07.

13 Q. Okay. Would you compare the fax signature at the top of  
14 that page -- or perhaps you recall, the fax signature at the  
15 top of that page relative to the other two applications that we  
16 were just looking at.

17 A. It looks like my fax signature.

18 Q. Okay. And if you look at the -- do those appear to be --  
19 well, let's take a look at the bottom, the signature on the  
20 first page of 67-D.

21 Your Honor, first of all, I'm sorry, I move in 67-D.

22 THE COURT: Any objection to it?

23 MR. ROSS: None, Your Honor.

24 THE COURT: It is received.

25 BY MR. GILLIS: (Continuing)

1 Q. Okay. Can you tell us, what is the date of this  
2 application?

3 A. It looks like it says 3/7/07.

4 Q. Did you notice something about that when we met?

5 A. Yes, I did.

6 Q. Tell the jury, if you would.

7 A. Well, it looks like somebody changed the 2 to a 3.

8 Q. And if we could have Ms. Porter show us 66 Delta again,  
9 and that signature and date.

10 Did you make that change?

11 A. No, I did not.

12 Q. And again at the end of that application, 67-D, we see  
13 that -- well, perhaps it is the penultimate page. The third  
14 page, I beg your pardon. No, I am sorry, the third page.

15 I beg your pardon, Your Honor, the fourth page.  
16 Thank you.

17 Again, there is this -- this page has no fax  
18 signature?

19 A. No, it does not.

20 Q. Any of that, those figures there, in your -- is any of it  
21 in your handwriting, any of this document?

22 A. None of it.

23 Q. And those gross rental figures, any of those true?

24 A. No, they are not.

25 Q. One moment, sir.

1 THE COURT: Yes, sir.

2 Q. Look at 63-D, please.

3 Can you tell the jury what that is, please.

4 A. It is a loan application with TBD on it.

5 Q. Who is the borrower on this property, or on this  
6 application?

7 A. I am.

8 Q. And who is the loan officer?

9 A. Lorene Chittenden.

10 MR. GILLIS: Your Honor, I would move 63-D.

11 MR. ROSS: No objection, Your Honor.

12 THE COURT: It is received.

13 BY MR. GILLIS: (Continuing)

14 Q. Now, on the last page of this document there is this  
15 schedule again.

16 Any of that true?

17 A. No, it is not.

18 Q. Any of it in your handwriting?

19 A. No, it is not.

20 Q. If you would look, please, at 63-C1.

21 This is a Settlement Statement for what property?

22 A. Oak Shade Road.

23 Q. Did you work with a Realtor on this property, do you  
24 recall?

25 A. Yes, I did.

1 Q. And who was that?

2 A. Lorene Chittenden.

3 Q. I am sorry, a real estate officer. Take a look at the  
4 second page of -- Your Honor, I move in 63-C1.

5 MR. ROSS: No objection, Your Honor.

6 THE COURT: It is received.

7 BY MR. GILLIS: (Continuing)

8 Q. Take a look at the second page there of 63-C1.

9 Looking at that, does that refresh your memory as to  
10 whether you worked with a real estate agent for this particular  
11 transaction?

12 A. Yes, I did.

13 Q. And who was that?

14 A. Saul Canas.

15 Q. Now, this particular purchase was in November, it was on  
16 November 21, 2006, is that right?

17 A. Yes.

18 Q. All right. And so, on the properties that we were looking  
19 at before this, did you work with Mr. Canas to find and get  
20 those properties?

21 A. One other property, Blake Lane.

22 Q. Pardon me?

23 A. Blake Lane, just the one other property.

24 Q. Just that one?

25 A. Yes.

1 Q. And then we were looking also at loans that you got in  
2 February of 2007, March 2007, and another in March 2007.

3 Did you use Mr. Canas for those properties?

4 A. No, I did not.

5 MR. GILLIS: Could I have one last moment, Your  
6 Honor?

7 THE COURT: Yes, sir.

8 MR. GILLIS: Thank you, sir. Thank you very much.

9 THE COURT: Cross-examination.

10 MR. ROSS: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MR. ROSS:

13 Q. Good afternoon, Mr. Hite.

14 A. Good afternoon.

15 Q. My name is Doug Ross. I represent, Ms. Chittenden.

16 We have not spoken before, have we?

17 A. No, we have not.

18 Q. You own your own business, correct?

19 A. Yes, I do.

20 Q. And how long have you done so, please?

21 A. 32 years.

22 Q. 32 years. All right. And in approximately 2003 did you  
23 expand your business by buying approximately \$250,000 of  
24 equipment for your company?

25 A. Yes.



1 Q. And then at some point you decided to also get involved in  
2 the real estate business, is that correct?

3 A. Yes.

4 Q. And that would be buying additional properties?

5 A. Correct.

6 Q. Some to renovate?

7 A. Yes.

8 Q. And some to sell?

9 A. Yes.

10 Q. And some to rent?

11 A. Yes.

12 Q. Okay. And did you disclose that plan to Ms. Chittenden?

13 A. Yes, I did.

14 Q. Okay. Now, let's take a look at -- and these are all in,  
15 I believe, so we can go right to the screen. 58-C1.

16 Ms. Porter will put that up on the screen for you.

17 Thank you, Ms. Porter.

18 It is not in. Then I am going to move it in, Your  
19 Honor.

20 MR. GILLIS: No objection, Your Honor.

21 THE COURT: All right. It is received.

22 MR. ROSS: Thank you.

23 BY MR. ROSS: (Continuing)

24 Q. This is a HUD-1 Settlement Statement, isn't it?

25 A. Yes, it is.

1 Q. And that's for the Blackstone Road property?

2 A. Yes.

3 Q. And that's your property?

4 A. Correct.

5 Q. And this was a refinance?

6 A. Yes, it was.

7 Q. In February of 2006, correct?

8 A. Yes.

9 Q. Now, to put it in context, you purchased this property, I  
10 think you testified to, about a year earlier in 2005, is that  
11 correct?

12 A. Yes, June of 2005.

13 Q. All right. Thank you. And you used Ms. Chittenden as  
14 your loan officer for the loan to purchase this property,  
15 correct?

16 A. Yes.

17 Q. And was that the first loan that you did with Ms.  
18 Chittenden?

19 A. Yes, it was.

20 Q. Okay. And did she fax you a blank loan application for  
21 the 2005 purchase of Blackstone?

22 A. Yes.

23 Q. Okay. And you filled out that application, correct?

24 A. Yes, I did.

25 Q. And that application is not one that you have been asked

1 about today, is it?

2 A. No, it is not.

3 Q. And you called Ms. Chittenden at least a couple of times  
4 while you were filling out that application to ask for her help  
5 in filling it out, correct?

6 A. Yes.

7 Q. All of the other applications that came to you from Ms.  
8 Chittenden for the other properties, which we will talk about,  
9 came to you filled out, is that correct?

10 A. Yes.

11 Q. And during the course of your dealings with Ms.  
12 Chittenden, you spoke to her quite a bit, didn't you?

13 A. Fair amount, yes.

14 Q. Okay. On a weekly basis, how many times do you think you  
15 called her on a weekly basis during that year or so of your  
16 activity?

17 A. Not very often, except for when there was something to  
18 deal with directly to a mortgage of a purchase or a refi.

19 Q. So, let me ask a better question. When there was a deal  
20 that you and she were working on and there was something in the  
21 pipeline, how frequently would you speak with her during those  
22 times?

23 A. One or twice.

24 Q. Really, once or twice per transaction?

25 A. Somewhere in that, possibly.

1 Q. Not more than that?

2 A. I don't think so.

3 Q. Okay. All right. So let's take a look -- let's go back  
4 to 58-C, please. This is your refinance of Blackstone.

5 And you're taking out two mortgages in this  
6 transaction, correct?

7 Could you scroll down, or maybe zoom out a little  
8 bit, please, Ms. Porter. Thank you, that's going to be good.  
9 All right.

10 You took out a first mortgage of \$339,200, correct?

11 A. Yes, it looks that way.

12 Q. And you took out, just a little below that, a second  
13 mortgage, thank you, Ms. Porter, of \$20,800-some odd dollars?

14 A. Yes.

15 Q. Okay. And then if we can go down to the bottom, please.  
16 The bottom of that left-hand column, perfect.

17 And you got cash back of just over \$69,000, correct?

18 A. Yes.

19 Q. What did you do with that money?

20 A. Went into the properties.

21 Q. Into your other properties?

22 A. This one also. This was a major renovation.

23 Q. Okay. So you took the cash out to renovate this and other  
24 properties?

25 A. Yes.

1 Q. Okay. And this closing occurred February 24 of 2006,  
2 correct?

3 It's right there on the HUD-1, the first page. Ms.  
4 Porter has it highlighted there for you.

5 A. Yes.

6 Q. Okay, great. So let's go, please, to 58-D.

7 And if this is not in, I would move it in so we can  
8 just publish it to, but I think it is in.

9 MR. GILLIS: No objection if it isn't, Your Honor.

10 MR. ROSS: I am pretty certain it is, actually.

11 MR. GILLIS: It's in.

12 BY MR. ROSS: (Continuing)

13 Q. This is your loan application for the Blackstone  
14 refinance, correct?

15 A. As best I can see. I can't see this very well.

16 Q. Let me see if we can zoom in a little bit toward the top  
17 section there. Thank you, Ms. Porter.

18 Does that help?

19 A. Yes.

20 Q. Okay. So it's the refinance for the transaction that we  
21 were just looking at the settlement sheet of?

22 A. Yes, it is.

23 Q. All right, great. Could you zoom back out, please, Ms.  
24 Porter.

25 And that's your signature on page 1?

1 A. Yes, it is.

2 Q. Okay. And let's go to page 2, please.

3 That's your signature on page 2?

4 A. Yes.

5 Q. And could you zoom back out, please.

6 And when you signed it, it had the income figure of  
7 19,000 on it at the top of that page, didn't it?

8 A. Now, yes, I see it now. A lot of these I did not look at  
9 as thoroughly as I should have.

10 Q. I understand. And my question is, it was there though  
11 when you signed it, wasn't it?

12 A. Yes.

13 Q. All right. Let's go to page 3.

14 And that's your signature about three-quarters of the  
15 way down the page, correct?

16 A. Yes, it is.

17 Q. All right. And you were asked -- can you zoom back out  
18 please, Ms. Porter.

19 You were asked questions by counsel about the Real  
20 Estate Owned section at the top of that page. Do you recall  
21 that?

22 A. Yes.

23 Q. And that information was on that page when you signed it,  
24 wasn't it?

25 A. Yes, it was.

1 Q. Okay. Let's go back to page 2 for a moment of this  
2 exhibit, if we may, please.

3 And, Ms. Porter, if we could focus on the BB&T  
4 section about a third of the way down. Thank you very much.

5 That is referring to a BB&T account with \$17,000, is  
6 that correct?

7 A. Yes.

8 Q. You had a BB&T account, didn't you?

9 A. Yes, I did.

10 Q. And did it have 17,000 in it, approximately, at this time?

11 A. It is quite possible, yes.

12 Q. Okay. Are you familiar with the term "seasoned funds"?

13 A. I learned that.

14 Q. And you learned that from Ms. Chittenden?

15 A. Yes.

16 Q. What did you understand seasoned funds to mean?

17 A. There had to be money in your account for I think at least  
18 a minimum of 60 days.

19 Q. So it couldn't be transient money that was just put in by  
20 a friend or colleague, it had to be stuff that was there for a  
21 period of time?

22 A. Correct.

23 Q. And you and she spoke a great deal about the fact that  
24 that was necessary for your transactions, correct?

25 A. Right.

1 Q. Let's take a look, please-- Oh. On occasion did Ms.  
2 Chittenden also ask you to provide her with your bank  
3 statements?

4 A. Yes.

5 Q. And if she did ask for it, you would do it, correct?

6 A. Yes. I would fax her over two months of the last bank  
7 statements.

8 Q. Okay. Let's take a look, please, at 58-K.

9 I don't know that this is in, so I would move it in,  
10 please, Your Honor.

11 MR. GILLIS: No objection.

12 THE COURT: It is received.

13 BY MR. ROSS: (Continuing)

14 Q. And actually it may help you, Mr. Hite, would you mind  
15 showing him the paper file so he can thumb through it. Thank  
16 you very much.

17 Take a moment and thumb through it. Ultimately after  
18 you have reviewed it, I am just going to ask you if those are  
19 two months of your bank statements that you provided to Ms.  
20 Chittenden in response to her request?

21 A. Yes.

22 Q. Okay. And would you look at the -- Ms. Porter, could we  
23 go to page 4 of that exhibit, please. And could you blow up  
24 the top half of the page -- that's great, thank you very much.

25 What we are showing you here is your BB&T account



1 statement. And it shows the balance as of November 30 of 2005  
2 of \$46,000 and change, correct?

3 A. Yes.

4 Q. Okay. And, Ms. Porter, if we could now go to the very  
5 first page of the exhibit, please. And the same portion of the  
6 first page.

7 And that shows your balance in your BB&T account as  
8 of December 30, '05, and it is \$17,000 and change?

9 A. Yes.

10 Q. So that is consistent with what was written on the  
11 handwritten loan application that we were just talking about?

12 A. Yes.

13 Q. Okay. Let's take a look, please, at 58-E1, which I  
14 believe is in. So, we can go straight -- we can go straight to  
15 the screen, Mr. Hite, if you would, please.

16 First of all, take a look page 2, please. And, Ms.  
17 Porter, if you could zoom in a little bit on the BB&T account  
18 section, please.

19 All right. And there -- this is the application that  
20 gets signed at closing, correct?

21 A. I didn't see the full page. It is hard for me to see the  
22 screen when it is stretched out on the full page.

23 Q. Let me ask you to feel free to look at the hard copy. Any  
24 time if I ask you a question and I haven't given you a document  
25 that you can read, just yell and I will fix it for you.

1 A. So which page are we looking at?

2 Q. Well, my first question was, this document is the one that  
3 gets closed at closing, right?

4 A. Yes, it is.

5 Q. So it is later on in the loan process than the loan  
6 application we were just talking about?

7 A. Correct.

8 Q. And if you look at page 2, this shows the BB&T account  
9 having about 9,825 in it, correct?

10 A. Yes.

11 Q. And was that what was in your account at that time,  
12 approximately?

13 A. The final numbers closer to settlement time, possibly,  
14 yes.

15 Q. Sometimes the account goes up or down, and it may have  
16 gone down from 17 to this, correct?

17 A. Right.

18 Q. Okay. Now, let me ask you to take a look at page 3 of  
19 that exhibit that you have in your hands, E1.

20 And that's your signature about three-quarters of the  
21 way down, correct?

22 A. Yes, it is.

23 Q. All right. And obviously since this was signed at  
24 settlement, all of the rental information at the top of the  
25 page that Mr. Gillis asked you about was on it when you signed

1 it, correct?

2 A. Yes, it was.

3 Q. And at this point in time, this is February of 2006, you  
4 still have not met Ms. Chittenden? You only dealt with her on  
5 the phone, correct?

6 A. Correct.

7 Q. All right. And let's take a look, please, at 58-F. And  
8 this one is definitely in.

9 This is the letter from Mr. Best, do you recall  
10 testifying about that?

11 A. Yes, it is.

12 Q. And this confirms that you were self-employed for at least  
13 two years, correct?

14 A. Yes.

15 Q. And that was true?

16 A. Yes.

17 Q. And it states that he had prepared your tax return for the  
18 last two years. And that was true, wasn't it?

19 A. Yes.

20 Q. Okay. Let me show you -- again, you are welcome to have  
21 the hard copy, 58-H, as in Harold, 1. And this is in. No,  
22 apparently it didn't get moved in.

23 So I would move it in, Your Honor. It is the '04 tax  
24 return.

25 MR. GILLIS: No objection, Your Honor.

1 THE COURT: All right, they are received.

2 MS. MARTINEZ: Can we have just a moment, Your Honor?

3 BY MR. ROSS: (Continuing)

4 Q. So, do you have 58-H1 in front of you, Mr. Hite?

5 A. Yes, I do.

6 Q. Do you recognize that as your 404(b) tax return?

7 A. Yes, it looks like it.

8 Q. And that was signed by Mr. Best on your behalf on page 2,  
9 is that correct?

10 A. I assume so, yes.

11 Q. Okay. And it shows your adjusted gross income for that  
12 year as a minus \$56,000, 56,771 to be exact, is that correct?

13 A. Yes.

14 Q. Have you filed your 2005 tax return yet?

15 A. I think it has been filed. I am not positive. I have  
16 some --

17 Q. Do you recall when you filed it?

18 A. No, I do not.

19 Q. If I suggested to you that it was in or about October of  
20 2013, would that seem about right to you?

21 A. It's possible, because a bunch of those are behind because  
22 of all the housing issues that were involved with it.

23 Q. Okay. Do you recall when the FBI -- strike that.

24 Did you meet with any of the FBI agents before the  
25 trial?

1 A. Yes, in November.

2 Q. In November?

3 A. Yes.

4 Q. Are you sure it wasn't October?

5 A. I don't think it was October. I am not positive.

6 Q. Okay. All right. Have you filed your 2006 tax return?

7 A. Not yet, no.

8 Q. Okay. So '06 has not been filed. You believe '05 was.

9 But '05 was never filed at any time before any of the  
10 transactions that we're talking about today, correct?

11 A. No.

12 Q. Okay. Let's go to 59-C1. I believe this is in already.

13 No? Excuse me.

14 Okay. So I would move in 59-C1, which is the HUD-1  
15 for Dover Road, Your Honor.

16 MR. GILLIS: No objection, Your Honor.

17 THE COURT: It is received.

18 BY MR. ROSS: (Continuing)

19 Q. And do you have the hard file in front of you, Mr. Hite?

20 A. 59-E1?

21 Q. C as in Charlie, please. I am sorry, I will annunciate  
22 better. C as in Charlie. I apologize.

23 Do you recognize this as the HUD-1 Settlement  
24 Statement for your purchase of Dover Road in March of 2006, is  
25 that correct?

1 A. Yes.

2 Q. And you testified about that earlier in response to some  
3 of Mr. Gillis' questions, right?

4 A. Yes.

5 Q. All right. So this is an acquisition of a new property  
6 for you, correct?

7 A. Yes.

8 Q. And, Ms. Porter, could you zoom out a little, please. And  
9 then maybe go back in on the middle of the HUD-1. Perfect.

10 And so, you took out a new loan of \$280,000, do you  
11 see that?

12 A. Yes.

13 Q. Okay. Also took out a second mortgage of a little over  
14 \$68,000?

15 A. Yes.

16 Q. And this is in addition to the two loans that we talked  
17 about that you took out on your refi of Blackstone just about a  
18 month earlier?

19 A. Yes.

20 Q. Okay. All right. And let's look at 59-D, please.

21 I have got to get used to using the call letters. I  
22 will do that.

23 This is your loan application for the purchase of the  
24 Dover Road property that we were just looking at, correct?

25 A. Yes.

1 Q. And that's your signature on page 1?

2 A. Yes, it is.

3 Q. And you received this by fax from Ms. Chittenden?

4 A. Yes, I did.

5 Q. And it was filled in when you received it?

6 A. Yes.

7 Q. Take a look at page 2, please.

8 You signed that page as well, didn't you?

9 A. Yes.

10 Q. All right. And the BB&T information above your signature,  
11 that was on there when you signed it, correct?

12 A. Yes.

13 Q. All right. Thank you, Ms. Porter. If we could zoom back  
14 out.

15 And the income figure of 19,000, that was on there  
16 when you signed it as well, wasn't it?

17 A. Yes, it was.

18 Q. Let's go to page 3, please.

19 That's your signature about three-quarters of the way  
20 down?

21 A. Yes.

22 Q. And the rental information at the top that you were  
23 questioned about, that was on there when you signed it?

24 A. Yes.

25 Q. Let's go back to page 2 for a moment, please. And the

1 BB&T account.

2 The BB&T account was the same one that we were  
3 talking about in connection with your application for  
4 Blackstone Road, correct?

5 A. Yes.

6 Q. And did you have \$144,000, or approximately that amount,  
7 in your BB&T account at that time?

8 A. It's quite possible, yes.

9 Q. Because of the refis that you were doing, the cash that  
10 you were pulling out of the other properties, correct?

11 A. Yes.

12 Q. Okay. Let me ask you if you would take a look at the last  
13 page of 59-D. There is a handwritten note there.

14 I believe you testified that's not your handwriting.

15 A. No, it's not.

16 Q. All right. But the statement in the note is correct,  
17 isn't it?

18 A. I hadn't had mortgages for four years prior to that. The  
19 mortgage on the 4115 Dumfries Road originally was in my  
20 mother's name to start off with.

21 Q. Okay. And you were only on title, you weren't on the  
22 mortgage, correct?

23 A. On title in May of 2005. Before that, no.

24 Q. Okay. And you weren't on the mortgage, correct?

25 A. No.



1 Q. Okay. And did you give that information to Ms.  
2 Chittenden?

3 A. Something in that general, possibly, yes.

4 Q. Okay. And take a look at, if you would, please, 59-F.

5 THE COURT: Have you got a bit more? How much more  
6 do you --

7 MR. ROSS: I do have a bit more, Your Honor, but one  
8 more question on this property and then it might be a good  
9 break because we will go on to deal with some of the other ones  
10 later.

11 THE COURT: All right, that's fine.

12 MR. ROSS: I would move in 59-F, Your Honor. It's  
13 Mr. Best's letter in this loan.

14 THE COURT: All right, it's received.

15 BY MR. ROSS: (Continuing)

16 Q. That's the same letter that we talked about previously  
17 from Mr. Best, correct?

18 A. Yes.

19 Q. And it is truthful?

20 A. Yes.

21 MR. ROSS: That's all I have on these couple loans,  
22 Your Honor.

23 THE COURT: All right. Let's break for lunch at this  
24 time. We will come back at 2 o'clock and continue hearing  
25 evidence at that time.

1 Have a nice lunch.

2 NOTE: At this point the jury leaves the courtroom;  
3 whereupon the case continues as follows:

4 JURY OUT

5 THE COURT: All right. Mr. Hite, you are in the  
6 middle of your testimony, sir, so don't discuss the testimony  
7 you have given with anyone while we are at lunch recess. All  
8 right, sir?

9 THE WITNESS: Yes, Your Honor.

10 THE COURT: All right. Then we are in recess until  
11 2 o'clock.

12 I have another hearing at 1:30 today as well, so I  
13 don't know what you did for lunch yesterday, but we will be in  
14 the same position at 1:30 today.

15 MR. ROSS: Thank you, Your Honor.

16 MS. MARTINEZ: Absolutely, Your Honor.

17 NOTE: At this point a recess is taken; at the  
18 conclusion of which the case continues in the absence of the  
19 jury as follows:

20 JURY OUT

21 THE COURT: All right. Ready for our jury?

22 MR. ROSS: Yes, Your Honor.

23 THE COURT: Joe, let's get our jury, please.

24 You can come back on to the stand, please, sir.

25 NOTE: At this point the jury returns to the

1 courtroom; whereupon the case continues as follows:

2 JURY IN

3 THE COURT: All right, please be seated.

4 Continue when you are ready, Mr. Ross.

5 MR. ROSS: Thank you, Your Honor.

6 BY MR. ROSS: (Continuing)

7 Q. Would you please show Mr. Hite 58-H, as in Harold, 2,  
8 please.

9 Mr. Hite, take a minute, please, and thumb through  
10 that, and then I will have a couple of questions about whether  
11 you recognize that document, please.

12 A. Yes.

13 Q. I will note for you that it is not signed on page 2.

14 A. Correct.

15 Q. So this is not a trick question. But my question is, is  
16 this your 2005 tax return?

17 A. To the best of my knowledge, yes.

18 Q. And page 1 of that tax return at the bottom of the page --  
19 well, strike that.

20 I would move in 58-H2, please, Your Honor.

21 MR. GILLIS: No objection.

22 THE COURT: It is received.

23 BY MR. ROSS: (Continuing)

24 Q. Can you publish page 1 for me, please.

25 And at the bottom of page 1, either on the screen or

1 in the hard copy, whichever you prefer does it show your  
2 adjusted gross income as being minus \$72,466.

3 A. Yes, it does.

4 Q. And do I recall your testimony earlier that you told Ms.  
5 Chittenden that your income in 2005 was around \$75,000?

6 A. The gross business income before any of these write-offs.  
7 I purchased so much equipment in '03 that there were so many  
8 write-offs for the equipment and everything else, that it just  
9 took everything down.

10 Q. So the figure you told her was a gross figure, not  
11 actually what you made?

12 A. That's what I had asked her about previously on this, was  
13 looking at what is my gross income. Which was basically the  
14 income that came into my business.

15 Q. And it is your testimony that you told her that your  
16 adjusted gross income for 2005 was negative \$72,000?

17 A. No, I don't remember telling her that at all, no.

18 Q. Okay. Let's take a look, please, at Exhibit 60-C, as in  
19 Charlie. And if it is not in, I would move it in. It is the  
20 HUD-1 from the Blake Lane transaction.

21 MR. GILLIS: No objection, Your Honor.

22 THE COURT: It is received.

23 MR. ROSS: Your Honor, I would just note that this is  
24 one of the transactions that is not in the indictment. So per  
25 your earlier instruction.

1 THE COURT: The same instruction, ladies and  
2 gentlemen. Thank you.

3 MR. ROSS: Thank you, Your Honor.

4 BY MR. ROSS: (Continuing)

5 Q. Do you recall testifying about this earlier? This is the  
6 HUD-1 from your refinance of the Blake Lane property, is that  
7 correct?

8 A. It is hard to see.

9 Q. Okay. 60 Charlie 1, please.

10 A. Yes, this is the refi for the Blake Lane property.

11 Q. Okay. And this was in June of 2006, correct?

12 A. Yes.

13 Q. So just a couple months after the Blackstone refinance  
14 that we talked about and the Dover acquisition that we talked  
15 about?

16 A. Correct.

17 Q. All right. And here you're taking out a loan -- could you  
18 scroll down just a little bit, please, Ms. Porter. Perfect.

19 You are taking out a new loan of \$29,450?

20 A. Second mortgage, yes.

21 Q. Yes, right. But it is a new loan, correct?

22 A. Yes.

23 Q. So it is further debt?

24 A. Yes.

25 Q. Okay. Let's take a look at 60-D. And I believe this is

1 already in. So we will publish, but it may be easier for you  
2 just to work off the hard copy. That's great, thank you.

3 This is the initial loan application for the Blake  
4 Lane refinance that we were just talking about, correct?

5 A. Yes.

6 Q. All right. And at the bottom of page 1, that's your  
7 signature, correct?

8 A. Yes.

9 Q. And this is another application that came to you filled  
10 out, correct?

11 A. Yes.

12 Q. All right. Let's take a look at page 2.

13 And you signed page 2?

14 A. Yes, I did.

15 Q. And the income figure at the top of the page was on there  
16 when you signed it?

17 A. I assume so, yes.

18 Q. That says 19,000 a month?

19 A. Correct.

20 Q. All right. Let's take a look page 3.

21 You signed that as well, didn't you?

22 A. Yes.

23 Q. And the rental information at the top of the page was  
24 there when you signed it?

25 A. Yes.

1 Q. All right. Let's go back to page 2 for a moment, please.  
2 The asset section, please, Ms. Porter. Thank you.

3 This refers again to your BB&T account, correct?

4 A. Yes.

5 Q. And it says there is \$130,000 in the account?

6 A. I assume so.

7 Q. You see the reference there?

8 A. Yes, I do.

9 Q. And do you believe there was \$130,000 in the account at  
10 that time?

11 A. It is quite possible, yes.

12 Q. All right. Let me ask you to take a look at 60-J, as in  
13 John, please. I don't think this one is in yet.

14 MR. GILLIS: No objection, Your Honor.

15 THE COURT: All right, it will be received.

16 MR. ROSS: Thank you.

17 BY MR. ROSS: (Continuing)

18 Q. Mr. Hite, this purports to be a verification of deposit  
19 from BB&T for your account saying that you have \$130,000 and  
20 some change in there.

21 Does that strike you as about what you had in your  
22 account at that time?

23 A. I really couldn't tell you exactly. It has been so long  
24 ago. On top of the fact of the money coming in and out for  
25 different things.

1 Q. It doesn't strike you as unreasonable that you would have  
2 had --

3 A. No, not at that time.

4 Q. Sorry, I didn't mean to talk over you. All right, thank  
5 you.

6 And let's go, please, to 60-E1. And I believe that  
7 is also in.

8 This is the final application for the Blake loan refi  
9 that we have been discussing, correct?

10 A. Yes.

11 Q. All right. This is the one that you signed at closing?

12 A. Correct.

13 Q. And if you would turn to page 3 for me, please.

14 And that is indeed your signature, correct?

15 A. Yes, it is.

16 Q. And the rental information is at the top of that page?

17 A. I assume so, yes.

18 Q. And turning back to page 2. It shows your income at the  
19 top of the page to be \$19,000 and change per month?

20 A. That's what I see on the application, yes.

21 Q. All right. Thank you.

22 Let's go to 61-C1, please.

23 I would move that in at this time, Your Honor. It is  
24 the HUD-1 that he testified about earlier.

25 THE COURT: It is received.



1 BY MR. ROSS: (Continuing)

2 Q. And are you looking at the hard copy, Mr. Hite?

3 A. Yes.

4 Q. All right. Is this a -- is this the HUD-1 from your  
5 refinance of the 4115 Dumfries property that you testified to  
6 earlier?

7 A. Yes. That's when we did the separation of the two  
8 properties.

9 Q. All right. And it looks like you paid off a first  
10 mortgage of 592,000 and change. Do you see that on line 04?

11 A. Yes.

12 Q. And looks like your new loan was a little below that,  
13 \$580,000?

14 A. Yes.

15 Q. So it didn't change the debt much, it was just part of  
16 your division of the properties?

17 A. I had to have two mortgages because there were two  
18 separate pieces of property after that.

19 Q. Okay. All right. So let's go to 61-D, as in David.

20 And this is the initial application for that loan  
21 that we were just looking at, correct?

22 A. Yes, it looks like it is.

23 Q. All right. Can we zoom out a little, please, Ms. Porter.

24 And you signed that on page 1?

25 A. Yes.

1 Q. Will you turn to page 2, please.

2 You signed page 2?

3 A. Correct.

4 Q. The income figure at the top of 29,000 was there when you  
5 signed it?

6 A. I assume so, yes.

7 Q. Because this came to you filled out from Ms. Chittenden,  
8 right?

9 A. Yes.

10 Q. Okay. Page 3, did you sign that, please?

11 A. Yes, I did.

12 Q. And that had the rental information at the top filled in?

13 A. Actually, it's blank on this one.

14 Q. Oh, the rental column is, you are right, but the other  
15 information was there, correct?

16 A. Yes, I assume so.

17 Q. Okay. And go back to page 2 for a moment, please. The  
18 asset section, please, Ms. Porter.

19 Does that look to you to be \$58,650.63?

20 A. Yes.

21 Q. And that's referring to your BB&T account again?

22 A. Yes.

23 Q. And do you believe that's what you had in your account at  
24 that time?

25 A. It is quite probable, yes.

1 Q. All right. Let me show you 61-J, as in John.

2 I would move this in, Your Honor. It is a  
3 verification of deposit for this loan.

4 MR. GILLIS: No objection.

5 THE COURT: It is received.

6 BY MR. ROSS: (Continuing)

7 Q. Mr. Hite, this is a verification of deposit for your BB&T  
8 account showing that the current balance was \$58,650.63.

9 Do you see that?

10 A. Yes, I do.

11 Q. And that matches the figure on the handwritten  
12 application, correct?

13 A. Yes.

14 Q. And your testimony is quite likely you did have that  
15 amount in your account at that time?

16 A. Yes.

17 Q. And would you take a look, please, sir, at 61-E, as in  
18 Elephant, 1, please.

19 This is the final application for this loan that we  
20 were discussing, correct?

21 A. Yes.

22 Q. The one that gets signed at closing?

23 A. Yes.

24 Q. If you take a look at page 3, please.

25 That's your signature at the bottom of the page?

1 A. Yes.

2 Q. It has got the rental information on it at the top of the  
3 page?

4 A. Correct.

5 Q. Okay. Turn back to page 2.

6 Also has your monthly income as \$20,000?

7 A. It's on the application, yes.

8 Q. Okay. And it also refers to the \$58,000 figure in the  
9 BB&T account that we discussed?

10 A. Yes.

11 Q. Okay. Thank you. Let's go to 62 Charlie 1, please.

12 I beg your pardon, I wanted to ask you one last  
13 question about 61 Charlie 1. I apologize.

14 I know I messed that up.

15 A. 61-E1?

16 Q. 61-C, as in Charlie.

17 A. You just gave that to me.

18 Q. 61-C?

19 A. Yes.

20 Q. Great. Would you look at that, please.

21 A. Yes.

22 Q. Okay. You added a second trust of \$140,000 and change, is  
23 that correct? Second trust being a mortgage.

24 A. This is different. I have the application here or the  
25 settlement sheet. This is for the 4127 property, not the 4115.

1 Q. Right. The one that we were talking about a minute ago.

2 A. No. No. This is the second property.

3 Q. I am sorry, which exhibit do you have, please?

4 A. I have 62-C1.

5 Q. Right. I need you to look at 61-C1, please. That was my  
6 mistake originally.

7 And you added -- this is when you were dividing the  
8 properties that we were talking about a minute ago, correct?

9 A. Right.

10 Q. And we talked about the first mortgage being relatively  
11 comparable to one that you paid off, correct? 592 was the  
12 payoff, 580 was the new loan?

13 A. Well, actually, you have a second mortgage that is on  
14 there also for 109 under that.

15 Q. That's what I was just going to ask. The second mortgage  
16 is actually for 140,000, correct?

17 A. No. If you look at the payoffs on these, there is a  
18 CitiMortgage there for 109,000 also.

19 Q. Right.

20 A. With the 592 original loan.

21 Q. Yes.

22 A. Yes.

23 Q. All right. So let's take that from the top real quick.  
24 You had a first mortgage of 582?

25 A. 92.

1 Q. 592, thank you. And a second mortgage of 109,000?

2 A. Correct.

3 Q. You paid those both off, correct?

4 A. Yes.

5 Q. With a \$580,000 first trust?

6 A. Right.

7 Q. And a \$140,000 second trust?

8 A. Correct.

9 Q. Okay. Thank you. Now let's go to 62 Charlie 1, please.

10 Is this the HUD-1 Settlement Statement for your  
11 refinance of 4127 Dumfries?

12 A. This is the first mortgage for it.

13 Q. Doesn't it say refinance on the first page?

14 A. Right. But, I mean, this is when the properties were  
15 separated.

16 Q. Yes.

17 A. Yes. This is actually the first mortgage. Or maybe it is  
18 the second mortgage. Okay.

19 Q. Well, no, you are putting a new mortgage on this property  
20 because you have just divided it from the other one, correct?

21 A. Correct.

22 Q. Okay. That's all I am asking. All right.

23 And so, you put a new mortgage of \$288,000 on it,  
24 correct?

25 A. Yes.

1 Q. All right. And then go to the bottom -- oh, excuse me.

2 Can I move in 62-C1, Your Honor? I got ahead of  
3 myself.

4 MR. GILLIS: No objection, Your Honor.

5 THE COURT: It is received.

6 MR. ROSS: That way the jury can see it while we are  
7 talking about it.

8 BY MR. ROSS: (Continuing)

9 Q. All right. And then at the bottom of the left-hand column  
10 it says Cash to the Borrower, just under \$195,000, correct?

11 A. Yes.

12 Q. That's what you received as a result of this transaction?

13 A. Correct.

14 Q. And what did you do with that money?

15 A. That went into all the properties that I had. The  
16 renovations, mortgage payments, and such.

17 Q. All right. And so, there was a new loan of \$288,000 on  
18 this property?

19 A. Yes.

20 Q. All right. Let's go to 62-D, as in David, please.

21 I will give you a second to look at that, but this is  
22 the loan application for the loan closing that we just talked  
23 about, right?

24 A. Yes.

25 Q. And this came to you filled in, correct?

1 A. Yes.

2 Q. All right. And you signed at the bottom of page 1?

3 A. Yes, I did.

4 Q. And at the bottom of page 2?

5 A. Yes.

6 Q. And at the bottom -- well, near the bottom of page 3?

7 A. Yes.

8 Q. All right. On page 3 it had the rental information on it  
9 when you signed it?

10 A. I assume so, yes.

11 Q. On page 2, it showed your income as \$29,000 a month.

12 And that was on there when you signed it, correct?

13 A. I assume so, yes.

14 Q. Let's go to 62-E1. E as in Elephant, please.

15 This is the final loan application for this loan,  
16 correct?

17 A. Yes.

18 Q. The one that gets signed at closing?

19 A. Correct.

20 Q. Look at page 3, please. And you signed that?

21 A. Yes, I did.

22 Q. And the rental information was on it when you signed it?

23 A. I assume so.

24 Q. And look at page 2, please.

25 Your monthly income says \$20,000 there?



1 A. That's what it says on the application, yes.

2 Q. That was there when you signed it?

3 A. I assume so.

4 Q. Okay. There is actually no bank account information on  
5 the final application, is there?

6 A. No.

7 Q. Let's go to 63 Charlie 1, please.

8 Your Honor, I would move this in. This is the HUD-1  
9 for the Oak Shade property acquisition.

10 MR. GILLIS: No objection, Your Honor.

11 THE COURT: It will be received.

12 BY MR. ROSS: (Continuing)

13 Q. 63 Charlie 1, please.

14 A. 63 Charlie 1?

15 Q. Yes.

16 A. That's what I have.

17 Q. This is the HUD-1 Settlement Statement for your  
18 acquisition of Oak Shade Road, correct?

19 A. Yes.

20 Q. Okay. That was in November of 2006?

21 A. Yes.

22 Q. All right. You took out a first mortgage of \$248,000 to  
23 purchase this property?

24 A. Yes.

25 Q. Looks like you also paid \$67,000 in addition to that to

1 acquire the property, is that correct?

2 A. Yes.

3 Q. And perhaps from some of the refi proceeds that we talked  
4 about earlier?

5 A. Exactly.

6 Q. Okay. All right. So you have added a debt of \$248,000  
7 for this property.

8 Let's take a look at 63 David.

9 You are welcome to take a minute, but my question is  
10 going to be, is this the initial loan application for the loan  
11 that we were just looking at the HUD-1 for?

12 A. I have no idea. It has TBD listed in there.

13 Q. Okay.

14 A. But just from the loan amount up there, yes.

15 Q. So the loan amount matches. But other than that, it is  
16 hard to tell, isn't it?

17 A. Exactly.

18 Q. Okay. So let's go to 63-E, as in Elephant, 1.

19 I would move this in, Your Honor. Apparently it is  
20 not in yet. This is the final loan application for the Oak  
21 Shade property.

22 MR. GILLIS: No objection, Your Honor.

23 THE COURT: Okay, it will be received.

24 BY MR. ROSS: (Continuing)

25 Q. Am I right, Mr. Hite, is this the final application for

1 your purchase of the Oak Shade property?

2 A. Yes.

3 Q. Take a look at page 3, if you would, please.

4 And that's your signature at the bottom of the page?

5 A. Yes, it is.

6 Q. Once again, all the rental information at the top was  
7 there when you signed it, wasn't it?

8 A. I assume so, yes.

9 Q. Okay. Look back to page 2, if you would, please.

10 It shows your income as \$20,000 a month?

11 A. It's on the application, yes.

12 Q. That was there when you signed it, wasn't it?

13 A. I assume so.

14 Q. Okay. And also on page 2 there is the asset account  
15 information that we have been talking about in some of the  
16 earlier ones. It shows your BB&T account information again,  
17 doesn't it?

18 A. Yes, it does.

19 Q. And it lists \$114,182.09?

20 A. Yes.

21 Q. Okay. Did you have that much or approximately that much  
22 in your account at that time?

23 A. It's quite possible, yes.

24 Q. All right. Take a look, if you would, please, at 63-J, as  
25 in John, please.

1 I would move this in, Your Honor. It is a  
2 verification for deposit of this loan.

3 MR. GILLIS: No objection.

4 THE COURT: It is received.

5 BY MR. ROSS: (Continuing)

6 Q. Mr. Hite, this is a verification from BB&T confirming that  
7 you had \$114,182.09, and I think your thought was that quite  
8 likely you did they've amount in your account?

9 A. Yes.

10 Q. And that matches the amount on the final loan application  
11 that we were just talking about, doesn't it?

12 A. Yes.

13 Q. Thank you. Let's go to 64 Charlie, please. It could be  
14 Charlie -- no, it is just Charlie, it is not Charlie 1.

15 COURT SECURITY OFFICER: 64 Charlie?

16 MR. ROSS: Yes, sir.

17 Your Honor, if I may, this is one of the transactions  
18 that is not in the indictment.

19 THE COURT: All right. Again, this may be considered  
20 only for purposes of intent, motive, and absence of mistake.

21 BY MR. ROSS: (Continuing)

22 Q. Mr. Hite, do you recognize this as the HUD-1 Settlement  
23 Statement for your refinance of the Oak Shade Road property  
24 that we talked about a moment ago?

25 A. Yes, that was a second mortgage.

1 Q. All right. You beat me to it. I am going to come to that  
2 in one second.

3 And this was in February of 2007, correct?

4 A. Yes.

5 Q. And you were taking out a new second mortgage on this  
6 property?

7 A. Yes.

8 Q. All right. So an additional \$31,000 of debt?

9 A. Yes.

10 Q. Okay. Let's take a look, please, at 64 David.

11 This is the initial loan application for the Oak  
12 Shade refinance that we just spoke about, isn't it?

13 A. Yes.

14 Q. And you signed on the bottom of page 1?

15 A. Yes.

16 Q. And you signed on the bottom of page 2?

17 A. Yes.

18 Q. And you signed near the bottom of page 3?

19 A. Yes.

20 Q. And when you signed page 3, the rental information was on  
21 there, wasn't it?

22 A. I assume so, yes.

23 Q. Because this came to you filled in, correct?

24 A. Yes.

25 Q. All right. And looking back at page 2, the monthly income

1 figure of \$20,000 was on there when you signed it?

2 A. I assume so, yes.

3 Q. And just below that there is the BB&T account again?

4 A. Yes.

5 Q. And it's referring to the 114,000 that we talked about  
6 earlier?

7 A. Yes.

8 Q. All right. Let's take a look at 64-E, as in Elephant,  
9 please.

10 This is the final application for that loan, correct?

11 A. Yes.

12 MR. ROSS: All right. And I would move in 64-E1,  
13 Your Honor.

14 MR. GILLIS: No objection.

15 THE COURT: Received.

16 BY MR. ROSS: (Continuing)

17 Q. Is that your signature on the top of page 1?

18 A. Yes, it is.

19 Q. Is it also your signature on the bottom of page 3?

20 A. Yes.

21 Q. And this is the one that you signed at closing, correct?

22 A. Yes.

23 Q. And it had the rental information on it when you signed it  
24 on page 3?

25 A. I assume so, yes.

1 Q. And looking at page 2, had your monthly income figure of  
2 \$20,991.57 on there when you signed it?

3 A. I assume so, yes.

4 Q. All right. And it again, it referred to your BB&T account  
5 with the 114,000 that we have been talking about?

6 A. Yes.

7 Q. All right. Let's take a look at 65 Charlie 1, please.

8 Your Honor, this is another one that is not in the  
9 indictment, please.

10 THE COURT: Same instruction, ladies and gentlemen.

11 MR. ROSS: And I would move in 65-C1, Your Honor, at  
12 this point. Apparently it is not in yet.

13 THE COURT: It is received.

14 MR. GILLIS: No objection, Your Honor.

15 BY MR. ROSS: (Continuing)

16 Q. And this is the HUD-1 Closing Statement for a refinance of  
17 the Dumfries property, is that correct?

18 A. 4127, yes.

19 Q. Yes. Okay. Thank you. And you are taking out a new  
20 \$36,000 loan?

21 A. Yes.

22 Q. And you got proceeds of \$33,553 and change?

23 A. Yes.

24 Q. And what did you do with those proceeds, please?

25 A. Everything just goes right back into the properties.

1 Q. Okay. All right, let's take a look at 65 David, please.

2 Is this the initial application for the loan  
3 transaction that we were just speaking of?

4 A. Yes.

5 Q. And is that your signature at the bottom of page 1?

6 A. Yes.

7 Q. And at the bottom of page 2?

8 A. Yes.

9 Q. And also near the bottom of page 3?

10 A. Yes.

11 Q. All right. And the rental information was on there when  
12 you signed it on page 3?

13 A. I assume so.

14 Q. All right. And take a look at page 2, please. It has got  
15 the monthly income figure of 20,000 on there, right?

16 A. It's on the application, yes.

17 Q. And it was there when you signed it?

18 A. I assume so.

19 Q. Because this came to you filled out before you signed it,  
20 right?

21 A. Correct.

22 Q. And right below that we have got the BB&T account again  
23 for the \$114,000 that we have talked about?

24 A. Yes.

25 Q. Okay. Let's take a look at 65 Elephant 1, please.



1                   This is the final loan application for this refinance  
2                   that we were discussing, right?

3           A.     Yes.

4           Q.     All right. And this is the one you signed at closing?

5           A.     Yes.

6                   MR. ROSS: And I would move in 65-E1 at this point,  
7                   Your Honor.

8                   THE COURT: It is received.

9           BY MR. ROSS: (Continuing)

10          Q.     And you signed page 1?

11          A.     Yes.

12          Q.     You signed page 3?

13          A.     Yes.

14          Q.     And page 3 had the rental information on it that you  
15                 talked about earlier, correct?

16          A.     I assume it was there, yes.

17          Q.     Take a look back at page 2, if you would, please.

18                   And that had the income figure, monthly income figure  
19                 of 20,991 on it when you signed it?

20          A.     I assume so, yes.

21          Q.     And it also had the BB&T account and the 114,000 that we  
22                 have talked about?

23          A.     Yes.

24          Q.     All right. Let's go to 66 Charlie 1, please.

25                   Is this the HUD-1 Settlement Statement for your

1 purchase of Kentwood Lane?

2 A. Yes.

3 Q. So here you are buying a new property?

4 A. Correct.

5 Q. All right. And this was on March 5, 2007, was the  
6 closing?

7 A. Yes.

8 Q. All right. And you're taking out a first mortgage of  
9 \$280,000?

10 A. Yes.

11 Q. And a second mortgage of \$33,662?

12 A. Yes.

13 Q. You also brought to closing \$40,000 in change, correct?

14 A. Yes.

15 Q. Likely some of the refinance proceeds from earlier  
16 transactions that we have been discussing?

17 A. Yes.

18 Q. Okay. Thank you. But you have added debt of a \$280,000  
19 first mortgage and a \$33,000 second mortgage, correct?

20 A. Yes.

21 Q. Let's look at 66 David.

22 This is your initial loan application for that  
23 acquisition, correct?

24 A. It looks like it. The numbers at the top of the page are  
25 different though.

1 Q. Which numbers are you referring to?

2 A. The first and the second. I guess it is split.

3 Q. Pardon me?

4 A. The first and the second. It says 30-something and then  
5 38.

6 Q. Okay. All right. Does that have your signature at the  
7 bottom of page 1?

8 A. Yes.

9 Q. And at the bottom of page 2?

10 A. Yes.

11 Q. And near the bottom of page 3?

12 A. Yes.

13 Q. And this came to you all filled out, correct?

14 A. Yes.

15 Q. And so, the rental information on page 3 was there when  
16 you signed it?

17 A. I assume so, yes.

18 Q. And on page 2, the monthly income of \$20,000 was there  
19 when you signed it?

20 A. I assume so, yes.

21 Q. And a little bit below that, we have got the BB&T account  
22 that we have been chatting about and the 114,000?

23 A. Yes.

24 Q. All right. And let's take a look at 66 Elephant 1,  
25 please.

1 I would move that in at this point, Your Honor. This  
2 is the final loan application for this loan transaction.

3 MR. GILLIS: No objection.

4 THE COURT: It is received.

5 BY MR. ROSS: (Continuing)

6 Q. Am I correct, Mr. Hite, is that the final loan application  
7 for this acquisition of the Kentwood Lane property?

8 A. Yes.

9 Q. All right. And you signed on page 1, correct?

10 A. Yes.

11 Q. And turning to page 3, you signed there as well?

12 A. Yes.

13 Q. And it had the rental information on the top of page 3  
14 when you signed it?

15 A. I assume so, yes.

16 Q. Looking back at page 2, it had the monthly \$20,000 income  
17 figure when you signed it?

18 A. I assume so, yes.

19 Q. And the same BB&T things that we have come to know at this  
20 point?

21 A. Yes.

22 Q. All right. All right. Then let's go to 67 Charlie 1,  
23 please.

24 I would move that -- well, excuse me, let me lay a  
25 foundation. I think you talked about this before.

1 MR. GILLIS: No objection, Your Honor.

2 MR. ROSS: Thank you, Mr. Gillis.

3 THE COURT: It is received.

4 BY MR. ROSS: (Continuing)

5 Q. Is this the HUD-1 Settlement Statement for your purchase  
6 of Westmoreland Drive?

7 A. Yes, it is.

8 Q. So this is another new property that you are acquiring,  
9 right?

10 A. The final one, yes.

11 Q. And you closed on that on March 16, 2007?

12 A. Yes.

13 Q. And you took on another first mortgage, correct?

14 A. Yes.

15 Q. \$280,000?

16 A. Yes.

17 Q. And another second mortgage of a little more than \$33,000?

18 A. Yes.

19 Q. Okay. All right. Let's look at 67 Elephant 1, please.

20 Is this the final loan application for your  
21 acquisition of Westmoreland Drive?

22 A. Yes, it looks like it.

23 MR. ROSS: Okay. And I would move that in at this  
24 time, Your Honor, 67-E1.

25 MR. GILLIS: No objection.

1 THE COURT: Received.

2 BY MR. ROSS: (Continuing)

3 Q. And you signed page 1, Mr. Hite?

4 A. Yes.

5 Q. And turning to page 3 --

6 A. Yes.

7 Q. You signed that as well, didn't you?

8 A. Yes.

9 Q. And the rental information at the top of the page was  
10 there when you signed it?

11 A. I assume so, yes.

12 Q. Take a look at page 2, please.

13 The monthly income of \$20,000 was there when you  
14 signed it?

15 A. I assume so, yes.

16 Q. And one last time, the BB&T account and the 114,000?

17 A. Yes.

18 Q. Okay. All right. So we have talked about a bunch of  
19 loans. The first one was the refinance of Blackstone in  
20 February of 2006, correct?

21 A. Yes.

22 Q. And as you pointed out, this last one, your acquisition of  
23 Westmoreland Drive, was in March of 2007?

24 A. Yes.

25 Q. So a little more than a year. You had one transaction

1 where you were really just dividing up the properties, you  
2 recall that one, right?

3 A. Yes.

4 Q. But then there were four acquisitions, Dover Road, Oak  
5 Shade Road, Kentwood, and Westmoreland, correct?

6 A. Yes.

7 Q. And would you trust me if I told you the math on that was  
8 that for those four transactions, you took out first mortgages  
9 of about \$1,222,000?

10 A. Probably sounds about right, yes.

11 Q. All right. And the other transactions that we talked  
12 about, there were five refinances out of the ten that we have  
13 gone through, correct?

14 A. Yes.

15 Q. And again, would you trust my math if I told that the new  
16 loans as part of those refinances were approximately \$743,000?

17 A. You have the numbers. I don't have them in front of me.

18 Q. Fair enough.

19 A. But I assume.

20 Q. I am reasonably confident in my math. Sounds about right  
21 though, doesn't it?

22 A. Yes.

23 Q. So between your purchases and your refinances, in that  
24 span of about 12 or 13 months you took out \$1,965,000 give or  
25 take of new debt?

1 A. You are probably right, yes.

2 Q. And your tax returns in 2004 showed that you lost \$56,000,  
3 correct?

4 A. Yes.

5 Q. And your tax return for 2005 shows that you lost \$72,000?

6 A. I guess. I saw that.

7 Q. Okay. And it's your testimony that during that time when  
8 you acquired all that debt, you did not look one time at any of  
9 the documents that we have gone through that you have signed to  
10 see what was being listed as your income?

11 A. No, I did not.

12 Q. May have I moment, please, Your Honor.

13 THE COURT: Yes, sir.

14 Q. Mr. Hite, do you recall when you were first contacted by  
15 the FBI?

16 A. First phone call might have been September or October. I  
17 am not positive.

18 Q. Of what year, sir?

19 A. 2013.

20 MR. ROSS: Thank you, Your Honor.

21 THE COURT: Okay, thank you.

22 Redirect?

23 MR. GILLIS: Thank you, Your Honor.

24 REDIRECT EXAMINATION

25 BY MR. GILLIS:



1 Q. Ms. Porter, could you bring up Exhibit 58-H1. And in  
2 particular, the last line.

3 Now, when my worthy opponent asked you about this,  
4 you mentioned that you had told the defendant your gross  
5 business income, is that right?

6 A. Yes.

7 Q. What he showed you here is your adjusted gross income, is  
8 that right?

9 A. Yes.

10 Q. Now, for that very first loan with the defendant, do you  
11 recall a discussion you had with her about the income of  
12 self-employed individuals?

13 A. Yes, somewhat, because it's different than --

14 Q. Well, explain to the jury what you told her or what you  
15 two discussed.

16 A. Well, to the best of my knowledge for that was just  
17 letting her know that, I mean, this is how much money that came  
18 into the business from the jobs that I had completed.

19 And then you still had expenses and other things like  
20 that to come out before you got to your bottom line.

21 Q. And were there -- at that time, in that discussion, were  
22 there any documents that you offered to give to the defendant?

23 A. Well, I had my tax returns from 2003 and '4.

24 Q. And did you offer those to the defendant?

25 A. Yes.

1 Q. And what was her response to that?

2 A. Well, that's when she kind of asked me about getting in  
3 touch with David Best about getting that small letter from him  
4 stating that he had been doing my tax returns.

5 Q. Now, on that first loan application with the defendant, do  
6 you recall filling in the income portion of the application?

7 A. It has been so long ago, I don't recall.

8 Q. The information that you put in that first income -- that  
9 first application, was it entirely truthful?

10 A. Yes, to the best of my knowledge.

11 MR. GILLIS: May I have one moment, Your Honor?

12 THE COURT: Yes, sir.

13 MR. GILLIS: First of all, Your Honor, I move in  
14 Government's Exhibit 58-H3.

15 THE COURT: Any objection?

16 MR. ROSS: I don't think there is any foundation,  
17 Your Honor.

18 MR. GILLIS: Well, it would have been the foundation  
19 that was laid when the --

20 THE COURT: What is H3.

21 MR. ROSS: It is the 2006 tax return, Your Honor.

22 THE COURT: All right. Well, he has testified about  
23 that and identified it now. It's in.

24 Did you ask him whether he recognized it and  
25 identified it? I thought I heard you say that.

1 MR. ROSS: H1 and H2, Your Honor, I could be wrong,  
2 but I don't think H3.

3 MR. GILLIS: I am sorry, I will do just that.

4 BY MR. GILLIS: (Continuing)

5 Q. Could you take a look at Government's Exhibit 58-H3. 58  
6 Hotel 3.

7 Do you see in there your -- in the first -- well,  
8 first of all, can you tell me what that is?

9 A. This is a copy of my 2006 tax return.

10 Q. And that has not yet been filed, to the best of your  
11 knowledge?

12 A. No.

13 Q. Do you believe it is accurate at this point, at least in  
14 that draft form?

15 A. Yes.

16 MR. GILLIS: Your Honor, I move in 58-H3.

17 THE COURT: All right, it is received.

18 BY MR. GILLIS: (Continuing)

19 Q. If you could look, please, at the Schedule C on that, the  
20 statement of business -- back one. The profit and loss from  
21 the business.

22 Do you see that?

23 A. Yes.

24 Q. And then line 1 there is an item for gross receipts or  
25 sales?

1 A. Correct. That would be the income I received from the  
2 jobs I performed.

3 Q. And is that -- in general, is that the information that  
4 you provided to the defendant?

5 A. Yes.

6 Q. Would you look at Government's Exhibit 58-H1 in the same  
7 Schedule C.

8 Do you see there -- and if you would like, you can  
9 look at the screen to your left there.

10 Do you see again the gross receipts or sales for your  
11 business?

12 A. Yes.

13 Q. This is one of the two tax returns that you offered to  
14 give to the defendant?

15 A. Yes.

16 Q. And then if you would look, please, at Government's  
17 Exhibit 58-H1.

18 I beg your pardon, 58-H2, to be clear, was your 2005  
19 tax return. Did you say that you had offered -- which tax year  
20 did you say --

21 A. Well, '3 and '4 would have been the ones that would have  
22 started everything in '05.

23 Q. Got it. So if you would look at Government's  
24 Exhibit 58-H1. And again, the profit and loss.

25 A. Yes, on Schedule C, 60,349.

1 Q. Could it be 69,349?

2 A. No. H2?

3 Q. No, no. I want you to look, sorry, at Government's  
4 Exhibit 58-H1.

5 A. Yes. The gross receipts for that year were 69,397.

6 Q. And is this now one of the two tax returns that you  
7 offered to provide to the defendant?

8 A. Yes.

9 Q. Could I have one moment, Your Honor.

10 Now, after that first discussion with -- the first  
11 loan with the defendant, she would send you these tax returns  
12 -- I beg your pardon. She would send you these loan  
13 applications?

14 A. Yes.

15 Q. Did she give you instructions -- first of all, how did you  
16 receive them from her?

17 A. Fax.

18 Q. And where did you receive them?

19 A. At my office at home.

20 Q. And your office is at home you say?

21 A. Yes.

22 Q. Do you spend your day working at home?

23 A. No.

24 Q. So where do you spend your day?

25 A. All over Northern Virginia.

1 Q. So, after that first loan, when she sent you this fax with  
2 the loan application, did she give you instructions along with  
3 it?

4 A. Sometimes it's if we want the deal to go through, she  
5 needs to have it on her desk first thing in the morning.

6 Q. And what did she tell -- what else did she tell you to do?

7 A. Just to sign where it shows the Xs for me to sign on the  
8 applications.

9 Q. Now, what kind of hours were you working around that time?

10 A. Farmer's hours.

11 Q. I beg your pardon?

12 A. Farmer's hours.

13 Q. For a nonfarmer, could you explain what that means.

14 A. Well, it was dusk to dawn, pretty much.

15 Q. And so, when did you actually receive the faxes that the  
16 defendant sent you?

17 A. Sometimes they would be there when I got home in the  
18 evening. Sometimes they might come in first thing in the  
19 morning.

20 Q. And she told you to do what with them?

21 A. To sign them and fax them back to her.

22 Q. And were there -- you mentioned that there was some time  
23 pressure involved?

24 A. Yes.

25 Q. Was that -- can you tell us, was that seldom, frequent?

1 A. Usually more frequent than not.

2 Q. Mr. Hite, do you recall the first time that you realized  
3 that these income and rental figures were on the applications  
4 that you signed?

5 A. After I went through all the old paperwork that I had for  
6 these properties, after being contacted by the FBI agents to  
7 see exactly what was going on.

8 Q. Okay. And then what?

9 A. Well, that's when I set up the appointment with my  
10 attorney to sit down and talk to the two agents.

11 Q. And what was your reaction to seeing the information on  
12 these applications?

13 A. I was shocked a little bit that, you know, this  
14 information was on there. Just rents that were way out of  
15 proportion for one thing for what the properties were actually  
16 worth.

17 Q. I believe you told the agents that you felt like a fool --

18 MR. ROSS: Your Honor, leading.

19 THE COURT: It's leading. Sustained.

20 You can refresh his recollection if you want, but you  
21 can't make the statement for him. You know that, Mr. Gillis.

22 MR. GILLIS: I beg your pardon, Your Honor. I  
23 withdraw the question.

24 BY MR. GILLIS: (Continuing)

25 Q. Now, you mentioned that the filing of your tax returns had

1 been delayed by all these issues with the properties?

2 A. Yes.

3 Q. What did you mean by that?

4 A. Well, some of the properties, there was phantom income,  
5 which is debt forgiveness. So there are issues that have to be  
6 dealt with that.

7 Q. Well, do you still own the properties?

8 A. No.

9 Q. And what happened to them?

10 A. They all went to foreclosure, including my own house.

11 Q. Including your own house?

12 A. Yes.

13 Q. How about your mom's house?

14 A. That too.

15 MR. GILLIS: That's all I have, Your Honor. Thank  
16 you.

17 MR. ROSS: May I ask limited, Your Honor, on the one  
18 exhibit that he had put in?

19 THE COURT: The tax return?

20 MR. ROSS: Yes.

21 THE COURT: Yes.

22 MR. ROSS: Thank you, Your Honor.

23 RECROSS-EXAMINATION

24 BY MR. ROSS:

25 Q. Mr. Hite, you do you still have 58-H3 in front of you?



1 A. No.

2 Q. 58 Harold 3, please.

3 This is your 2006 return, correct?

4 A. Yes.

5 Q. Hasn't been filed, correct?

6 A. No, not yet.

7 Q. But you believe it's accurate?

8 A. Yes.

9 Q. All right. Let's go to the Schedule C, which is the  
10 fourth page.

11 A. Yes.

12 Q. I want to make sure I followed your testimony. The gross  
13 income figure on line 7 is the 48,512?

14 A. Correct.

15 Q. That's what you say you told Ms. Chittenden?

16 A. Yes. Well, at that point this tax return never came into  
17 issue.

18 Q. Understood. But you gave her generally that figure?

19 MR. GILLIS: Objection, Your Honor. There is no  
20 foundation that this was --

21 THE COURT: Overruled. You went into it. He can  
22 probe further.

23 BY MR. ROSS: (Continuing)

24 Q. Can you zoom out please, Ms. Porter.

25 So I believe you testified that you gave the \$48,000

1 figure to Ms. Chittenden is what you were making, correct?

2 A. Not at that time, no. The only income information that  
3 came out was in 2005. There was never any income given to her  
4 from that time forward.

5 Q. So you never told her anything about 2006?

6 A. No.

7 MR. ROSS: That's all I have, Your Honor. Thank you.

8 THE COURT: All right. Mr. Hite, you are excused,  
9 sir. Don't discuss the testimony you have given with anyone  
10 until our trial is over.

11 NOTE: The witness stood down.

12 THE COURT: Next witness.

13 MS. MARTINEZ: Spencer Brooks, Special Agent Spencer  
14 Brooks.

15 NOTE: The witness is sworn.

16 SPENCER BROOKS, called by counsel for the United  
17 States, first being duly sworn, testifies and states:

18 DIRECT EXAMINATION

19 BY MS. MARTINEZ:

20 Q. Good afternoon.

21 A. Good afternoon.

22 Q. Could you introduce yourself to the jury, please.

23 A. Spencer Brooks.

24 Q. How are you employed?

25 A. I am a special agent with the FBI.

1 Q. How long have you been a special agent with the FBI?

2 A. About seven-and-a-half years.

3 Q. Are you on any particular squad within the FBI?

4 A. I work at the Manassas office, which is attached to the  
5 Washington Field Office, and I am on the Financial Institution  
6 Fraud Squad.

7 Q. How long have you been on that squad?

8 A. For about seven-and-a-half years.

9 Q. As part of your official duties, were you the lead FBI  
10 agent on the investigation that led to this case?

11 A. Yes.

12 Q. When did you first become involved in the investigation?

13 A. We opened it in late 2009.

14 Q. Have you been involved since the beginning?

15 A. Yes, I have.

16 Q. As part of your investigation, were you also involved in  
17 collecting the documentary evidence that has been presented  
18 throughout the trial?

19 A. Yes, I was.

20 Q. Were you also involved in organizing these exhibits?

21 A. Yes.

22 Q. And we have had a lot of exhibits that have come into  
23 evidence and been discussed that are identified by a number  
24 followed by a letter, such as 36 Charlie or 37 Delta.

25 Can you briefly explain the organization of the

1 exhibits to clarify for the jury and the record.

2 A. Sure. From the numbers 36 and up, so 36 through 79 or 80,  
3 I can't remember off the top of my head, those are an  
4 individual loan transaction. 36 is one loan transcription, 37,  
5 38, and on up for each number.

6 Q. So, in other words, if an exhibit starts with a number 36  
7 or higher and is followed by a letter, does that mean they are  
8 all related to that loan transaction?

9 A. That's correct. So all the documents that are in evidence  
10 for a particular loan transaction all will be for 36. And then  
11 another loan transaction would be 37.

12 So all the documents related to that transaction are  
13 in that number sequence, 36-A, B, C, D.

14 Q. Where did these documents come from before they were  
15 exhibits?

16 A. Mostly from Cardinal Bank and George Mason Mortgage.

17 Q. And did all of them in the 36 on through the end series  
18 come from Cardinal Bank and George Mason Mortgage?

19 A. That's correct.

20 Q. Every single one of them?

21 A. Mostly. Not every single one of them in that series,  
22 that's correct.

23 Q. Can you explain further which, if any, did not come from  
24 Cardinal Bank?

25 A. I can. If you don't mind, I am going to refer to some

1 notes that I made about a few exhibits that were put into those  
2 particular loan transactions but didn't come from the bank.

3 Q. Yes, please.

4 A. So there are actually three places in general that the  
5 exhibits came from. As we said, primarily they came from the  
6 bank, from Cardinal Bank.

7 But there are also a few exhibits that came from  
8 witnesses. And then a few exhibits that came from banks where  
9 people, for example, had checking accounts. So maybe we got  
10 their bank statements from that bank.

11 So from witnesses, 58-H1, 58-H2, 58-H3 --

12 MR. DAVIS: May I request that the short  
13 identification of the item be given?

14 BY MS. MARTINEZ: (Continuing)

15 Q. If you don't mind if we do it this way, since I know you  
16 don't have the exhibit list in from you, would you mind if he  
17 just states the number. And if it's okay with Your Honor, I  
18 will describe what it was based on how it was described in the  
19 testimony --

20 THE COURT: Don't you have a witness list as well?

21 MR. DAVIS: Yes, Your Honor, I do.

22 THE COURT: All right. Well, the jury is not going  
23 to follow these numbers and equate with hundreds literally of  
24 exhibits when you go A through D.

25 And so, this is irrelevant for the jury's purpose. I

1 am sure you have another purpose in mind, but it's not going to  
2 help the jury to identify it.

3 So just give us the numbers, Special Agent, and you  
4 pick it up from your exhibit list if you are going to use it in  
5 cross-examination.

6 MR. DAVIS: Thank you.

7 THE WITNESS: Sure, Your Honor.

8 BY MS. MARTINEZ: (Continuing)

9 Q. If you could start at the beginning, you were talking  
10 about exhibits that came from a witness.

11 A. Yes. From Mr. Dennis Hite, 58-H1, 58-H2 and 58-H3.

12 And then the only other documents that came from a  
13 witness were from Rocio Benavides, and that 36-Z, 37-Z, 38-Z1,  
14 and 38-Z2.

15 Then there was one other document or a couple other  
16 documents I guess that came from other witnesses. 40-Z1 came  
17 from Zenaida Linares.

18 And 60-Z1 and 60-Z2 came from David Best.

19 And then there are, as I said before, a few exhibits  
20 that came from banks, not from Cardinal Bank, or the loan  
21 files, but banks maybe where we sent a subpoena for checking  
22 account information. Those exhibits are 38-K, 38-L1, 38-L2,  
23 41-K, and 44-Z.

24 MS. MARTINEZ: Thank you. Your Honor, at this point  
25 I would move in exhibits, and I will list them in just a

1 minute, and I understand that defense counsel doesn't have any  
2 objection, but for any of the transactions that we've talked  
3 about, any of the HUD-1s or the loan applications, either the  
4 handwritten or the final, that for one reason or another may or  
5 may not have been moved in, if I could just list them and move  
6 them in at this time.

7 THE COURT: Go ahead.

8 MS. MARTINEZ: 36 Charlie 1. 39 Echo 1. 40 Charlie.  
9 40 Echo. 42 Charlie 1. 42 Echo 1. 43 Charlie 1. 43 Echo 1.  
10 44 Echo 1. 47 Echo 1. Excuse me, 47 is just 47 Echo. 48  
11 Echo. 42 Charlie 1 -- excuse me, 52 Charlie 1. 52 Echo 1. 53  
12 Charlie 1. 53 Echo 1. 54 Charlie 1. 54 Echo 1. 55 Echo 1.  
13 56 Charlie 1. 56 Echo 1. 57 Charlie 1. 59 Delta. 69 Charlie  
14 1. 71 Charlie. 72 Charlie. 73 Charlie. 76 Charlie. 77  
15 Charlie. 78 Charlie. 79 Charlie.

16 And then in addition, one underwriting document.  
17 Also 49 Mike.

18 THE COURT: Okay. All right. There is no objection  
19 to those?

20 MR. DAVIS: Your Honor, if I might just have a moment  
21 about the 70 series, 71 through 79.

22 THE COURT: Do you want to reserve on those or not?

23 MR. DAVIS: Yes, we would, just on the 70 series. I  
24 don't think it's a problem.

25 THE COURT: Okay.

1 MR. DAVIS: We will reserve.

2 THE COURT: All right. We will reserve on the 70s.

3 MR. DAVIS: The others, no objection.

4 THE COURT: Okay.

5 MS. MARTINEZ: Just to lay a little foundation on the  
6 70 series.

7 BY MS. MARTINEZ: (Continuing)

8 Q. On the 70 series, the Rosie Vilchez loans, were you  
9 involved in preparing those exhibits?

10 A. Yes.

11 Q. And did you review HUD-1 Settlement Statements for each of  
12 those loan files?

13 A. Over the course of the investigation, yes.

14 Q. And are those HUD-1 Settlement Statements included in the  
15 exhibit series in the organizational manner that you discussed?

16 A. Yes, they are.

17 Q. Speaking of loan files. As part of your duties, did you  
18 review loan files for this investigation?

19 A. Yes.

20 Q. And did you review specifically the loan files for all of  
21 the loans that have been discussed throughout this trial?

22 A. Yes.

23 Q. And when you did that review, generally speaking what  
24 documents did you review?

25 A. Generally we would review the HUD-1, the loan application,



1 if there is an initial one and a final one.

2 And then other important underwriting documents. If  
3 there is a verification of deposit, or a CPA letter, or an  
4 underwriting summary, the general documents that were important  
5 to the underwriting.

6 THE COURT: Where did you get them?

7 THE WITNESS: We got them from Cardinal Bank, Your  
8 Honor.

9 THE COURT: Okay.

10 BY MS. MARTINEZ: (Continuing)

11 Q. And from those loan files that you got from Cardinal Bank,  
12 were you able to determine the borrower for each of those  
13 transactions?

14 A. Yes.

15 Q. Were you able to determine the closing date for each of  
16 those transactions?

17 A. Yes.

18 Q. Were you able to determine the address of the property?

19 A. Yes.

20 Q. And the sales price of the property?

21 A. That's correct.

22 Q. And were you also from those loan files able to determine  
23 the income that was included in the applications for those  
24 loans?

25 A. Yes.

1 Q. Your Honor, if we could show the witness Exhibit 10-B,  
2 which is not yet in evidence.

3 What is that?

4 A. This is a summary chart that I was involved in preparing  
5 that lists the borrowers, and their addresses, and the closing  
6 dates, and loan amount, and the income listed on the loan  
7 application, but annualized.

8 So, essentially times 12 because it was monthly  
9 income listed on the loan application.

10 Q. Where does the substantive information in that exhibit  
11 come from?

12 A. The loan files.

13 MS. MARTINEZ: Your Honor, we move 10-B into  
14 evidence.

15 THE COURT: Any objection?

16 MR. DAVIS: Just to clarify. Are these from the  
17 final loan app docs signed at closing?

18 BY MS. MARTINEZ: (Continuing)

19 Q. Well, when you say these -- did you get the information  
20 about the loan amount from the final documents at closing?

21 A. That's correct. We went to the final loan application  
22 versus the initial handwritten loan application.

23 Q. How about the income on the 1003, did you use the final  
24 versions of the 1003s?

25 A. Yes.

1 THE COURT: All right. Any objection?

2 MR. DAVIS: No objection, Your Honor.

3 THE COURT: All right, it is received.

4 BY MS. MARTINEZ: (Continuing)

5 Q. Can you just explain what the first two columns in that  
6 chart represent.

7 A. The first column with the header GEX is the Government  
8 exhibit series. So the first one is 36.

9 So, 36-A, B, C, D would all be the exhibits related  
10 to borrower Alma de León Reyes and her property on Sanderling  
11 Drive.

12 And then on down through 58 and beyond for the  
13 Government's exhibit number.

14 Then column two is count number. So it relates -- if  
15 that particular loan transaction relates to a particular count  
16 in the indictment, it is noted there.

17 Q. Thank you. As part of your duties in this investigation,  
18 did you also obtain and review information related to the  
19 defendant's compensation during the period of time relative to  
20 the indictment?

21 A. I did.

22 Q. How did you obtain that information?

23 A. I sent a subpoena to Cardinal Bank and obtained loan  
24 commission information for all of 2005, 2006, and 2007.

25 Q. And in what form did you receive that information? If you

1 could sort of briefly describe that.

2 A. It was either a page or two pages for each month, and it  
3 listed -- so for January 2005, there was a page or two,  
4 depending upon how many transactions closed that month, and it  
5 listed the borrower's last name, listed the loan number, listed  
6 the closing date, and then the commissions, and on down the  
7 page.

8 And then we had one of those for every more for 2005,  
9 2006, and 2007.

10 Q. And from those documents that you described, were you able  
11 to identify the defendant's commissions for each of the  
12 transactions that were discussed through the course of trial?

13 A. Yes.

14 Q. And how were you able to do that?

15 A. So we had the borrower's last name, and the loan number,  
16 and the closing date. And I believe even the loan amount were  
17 on the commission records. And then it was just a line. And  
18 as you followed the line over, it either had a commission  
19 amount -- there were different kinds of commissions, maybe a  
20 basic commission. And then there are things that are called  
21 loan shortages or loan overages.

22 And if you added up that total line for that  
23 particular loan, that was how much Ms. Chittenden made on each  
24 of those loans.

25 Q. If we could show the witness Government's Exhibit 10-A, as

1 Alpha.

2 What is that document, sir?

3 A. This document is a chart that summarizes all Ms.  
4 Chittenden's commissions for each of the loan transactions that  
5 evidence was put in about during the trial.

6 Q. Were you involved in making that chart?

7 A. Yes, I was.

8 Q. And where did the information in the chart come from? I  
9 think you made that clear, but just to be sure.

10 A. It came from the loan commission records that we received  
11 from Cardinal Bank.

12 MS. MARTINEZ: Your Honor, I would offer Exhibit 10-A  
13 into evidence.

14 MR. DAVIS: No objection.

15 THE COURT: It is received.

16 BY MS. MARTINEZ: (Continuing)

17 Q. And are the first two columns, do they function  
18 essentially the same way that the first two columns in the  
19 previous chart do?

20 A. Yes, they do.

21 Q. And if we could go to the second page -- actually, if we  
22 go back to the first page for just one moment.

23 On the first page, we don't need to zoom it, just  
24 leave it.

25 Where it says -- the line that starts with 40 in the

1 left-hand column. If you go all the way over in that line, the  
2 commission column says: No COMM. per DVL.

3 Can you explain why you put that in that particular  
4 box.

5 A. I can. As you can see, for every other transaction it has  
6 a number in there, but in the loan commission records that we  
7 reviewed to put this chart together, there is no commission,  
8 there are zeros across the board for the Zenaida Linares  
9 transaction. And then there is a note on the right-hand side  
10 or an entry on the right-hand side by that line that says No  
11 COMM. per DVL.

12 Q. Were there other transactions in all of these commission  
13 sheets where the commission was zero?

14 A. There were a couple other transactions where the commission  
15 was zero.

16 Q. Did all the --

17 MR. DAVIS: Objection, relevance.

18 MS. MARTINEZ: Your Honor, I am simply trying to  
19 explain where he got this notation from. It will become clear  
20 with the next question.

21 THE COURT: All right. I will allow it.

22 BY MS. MARTINEZ: (Continuing)

23 Q. Did all of the ones that had a zero have the same notation  
24 next to it, or did they not?

25 A. No, they did not.

1 Q. All right. On page 2, at the bottom, it says Total  
2 Commissions.

3 What does that represent?

4 A. If you add up all the numbers in the Chittenden commission  
5 column, that's the total commissions for just this chart, for  
6 just the transactions where evidence was presented during the  
7 trial.

8 Q. What was the period of time for the transactions on this  
9 chart?

10 A. I believe it was June 2005 to August 2007.

11 Q. In your review of the defendant's commissions in these  
12 documents that you obtained from the bank, were you also able  
13 to identify other commissions the defendant had earned from  
14 clients of Rosie Vilchez?

15 A. Yes.

16 Q. And how did you go about doing that?

17 A. We had a lot of loan files throughout the course of the  
18 investigation, and a lot of loan files related to borrowers  
19 that were Vilchez & Associates clients.

20 And when we compiled sort of all the information for  
21 all those borrowers and all those loans, there are different  
22 places in the documents where Vilchez & Associates would be  
23 noted as the entity involved.

24 For example, in the sales contract, it might have a  
25 Realtor listed that is from Vilchez & Associates, and below

1 their name it would say Vilchez & Associates.

2 Or on the HUD-1, at the top of the second page it  
3 would say: Commission paid to Vilchez & Associates.

4 So we were able to determine which transactions that  
5 Ms. Chittenden did were Vilchez & Associate clients as well.

6 Q. And what period of time was this over? Of the documents  
7 that you reviewed, what period of time?

8 A. Generally 2005, 2006, 2007.

9 Q. Can we show the witness Government's Exhibit 10-C.

10 Do you have 10-C in front of you?

11 A. I do.

12 Q. What is that?

13 A. This is a summary chart that I helped put together that  
14 lists the borrower, the address, the closing date, and the  
15 commission for Ms. Chittenden. But this is just for  
16 commissions related to Vilchez & Associates clients.

17 MR. DAVIS: Objection, Your Honor. May we approach  
18 and show you the chart?

19 THE COURT: Yes.

20 NOTE: A side-bar discussion is had between the Court  
21 and counsel out of the hearing of the jury as follows:

22 AT SIDE BAR

23 MR. DAVIS: This is 10-C, Your Honor. The  
24 Government's objection is that this particular -- I am sorry, I  
25 forget. Pardon my --



1 THE COURT: Shocked that it was only one time.

2 MS. MARTINEZ: I am too.

3 MR. DAVIS: The defense had no objection to the  
4 commission chart for the loans proved in this case, both the  
5 loans charged in the indictment and all the other loans not  
6 charged in the indictment. That shows about \$99,000 over two  
7 years total commissions.

8 This exhibit, as I understand it, is a compilation of  
9 Vilchez & Associates loans over some period of time, and most  
10 of them there is not a shred of evidence about and no  
11 information before this jury about.

12 And so, to present evidence of her commissions on  
13 specific loans is prejudicial, and it is not probative because  
14 it is not proving any count in the indictment.

15 THE COURT: Doesn't it go to the extent of the  
16 relationship between your client and Vilchez & Associates?

17 MR. DAVIS: It does, Your Honor, and we would not  
18 object to a question about the number of loans. But to put in  
19 front of them a financial number is just more prejudicial than  
20 probative. This is the way they get 225,000 in front of the  
21 jury when, even with all the good work in this case, they  
22 couldn't quite get to 100.

23 MS. MARTINEZ: Your Honor, the amount of money that  
24 the defendant made off of clients involved with Vilchez &  
25 Associates is completely probative, as Your Honor stated, to

1 the nature of that relationship.

2 It also goes to the question of why she would  
3 continue to take business from that company and how closely she  
4 would pay attention to those loans. She was making a huge  
5 amount of money from it.

6 And that is probative to our argument that she was  
7 paying attention to these loans and to the loans of Rosie  
8 Vilchez which they also processed.

9 THE COURT: I am going to allow it. Your exception  
10 is noted. And you can cross-examine on the fact that the  
11 majority of those are all legitimate transactions.

12 MR. DAVIS: Thank you.

13 NOTE: The side-bar discussion is concluded;  
14 whereupon the case continues before the jury as follows:

15 BEFORE THE JURY

16 MS. MARTINEZ: Your Honor, we would move 10-C into  
17 evidence.

18 THE COURT: It is received.

19 BY MS. MARTINEZ: (Continuing)

20 Q. Could you explain to jury what each of these columns  
21 represents.

22 A. Yes. On the left-hand side, the Borrower column, that has  
23 the borrower's last name. We put the last name because the  
24 loan commission records just have the last name in them.

25 Then we put the address and the closing date. And

1 then added up the commissions from the different portions of  
2 the commission in the commission records for that transaction.

3 Q. And over what period of time do the transactions on this  
4 chart extend?

5 A. I just want to clarify, I think I misspoke earlier when  
6 you asked me about transaction dates for the prior chart. I  
7 think I gave an answer for this chart.

8 This chart is June 2005 to August 2007.

9 Q. And so that you can clarify, on Government's Exhibit 10-A,  
10 the commissions that actually relate to the transactions that  
11 were put into evidence throughout the course of this trial,  
12 what was the time period on that chart?

13 A. If I can review it for just a minute.

14 Q. Absolutely.

15 A. It appears to be about February '06 to maybe August '07.

16 Q. Thank you. Going back to 10-C. And actually if we could  
17 go to page 3.

18 What does this total number at the bottom represent?

19 A. That represents all the commissions just on this chart,  
20 which are the Vilchez transactions that -- Vilchez and Ms.  
21 Chittenden transactions that we had commission records for and  
22 documents for where we knew it was a Vilchez transaction.

23 Q. In your review of these commission records, were you also  
24 able to determine the total commission that the defendant  
25 received from all of the loans that she processed in this

1 period of time?

2 A. Yes.

3 Q. And what percentage of the defendant's overall commissions  
4 in this period came from clients on this chart? In other  
5 words, Vilchez & Associates clients?

6 A. About 21-and-a-half percent.

7 Q. Agent Brooks, during the course of this trial we heard  
8 something about called a 4506-T. Is that something that you  
9 are familiar with as apart of your duties as an FBI agent on  
10 the squad that you said you were on which, if I am right, is  
11 the Financial Institution Fraud Squad?

12 A. Yes, I am familiar with the 4506-T.

13 Q. Would you tell the jury briefly what a 4506-T is?

14 A. 4506-T is a form that a mortgage company or a bank may  
15 have a borrower sign that says either during the course of the  
16 loan transaction or maybe after the loan transaction is closed  
17 if another bank is buying the loan, if a 4506-T is signed, the  
18 bank has the ability to request the file tax transcripts from  
19 the IRS so that they then compare it to the income that was  
20 listed in the loan file. Or maybe if there were tax returns in  
21 the loan file, they could compare the two of them.

22 Q. Thank you. During the course of your investigation, did  
23 you have the opportunity to interview the defendant?

24 A. I did.

25 Q. How many times?

1 A. Twice.

2 Q. When was the first time?

3 A. In August 2010.

4 Q. When was the second time?

5 A. It was in January 2012, I believe.

6 Q. What were the circumstances of the second interview?

7 A. During the second interview I was sitting at my desk and  
8 she called me. And she was inquiring about the status of the  
9 investigation since we had interviewed her quite awhile before.

10 Q. In either interview, did the defendant say anything to you  
11 about having any suspicions at any point in time about Rosie  
12 Vilchez?

13 A. During the first interview she described one incident in  
14 2001 where she believed she caught Rosie Vilchez forging a  
15 prequalification letter, forging Ms. Chittenden's signature on  
16 a prequalification letter.

17 Q. And did she indicate whether or not that had been reported  
18 to the FBI?

19 A. Yes, she said it had been reported to the FBI.

20 Q. When she gave you that information, did you subsequently  
21 go and review FBI files to determine whether or not such a  
22 report had in fact been made?

23 A. I did.

24 Q. What you did find?

25 A. I found a report from April of 2001. It was unclear

1 whether or not the bank had reported it or maybe Ms. Chittenden  
2 had reported it herself, but it certainly had been reported to  
3 the FBI.

4 Q. What was the substance of that report, in brief?

5 A. That Ms. Chittenden had discovered through talking to a  
6 settlement company that was handling a transaction that they  
7 had a copy of a prequalification letter that had her signature.  
8 She obtained a copy of that letter and said it was not her  
9 signature. And ended up confronting, I believe, Rosie Vilchez  
10 about it.

11 Q. Based on your review of these FBI records, were you able  
12 to identify any other instance of a report -- of the defendant  
13 making a report after April of 2001 either about Rosie Vilchez  
14 or any other fraud?

15 A. No.

16 Q. No you were not able to or no you found -- could you  
17 clarify.

18 A. I found no other reports by the defendant about other  
19 fraud.

20 Q. Or about Rosie Vilchez?

21 A. Or about Rosie Vilchez.

22 MS. MARTINEZ: Thank you, Agent Brooks.

23 Nothing further at this time, Your Honor.

24 THE COURT: All right. Cross-examination.

25 CROSS-EXAMINATION

1 BY MR. DAVIS:

2 Q. Showing you Exhibit 13 for identification, Agent Brooks.

3 Is that the FBI report made by Lorene -- or that has  
4 Lorene Chittenden's name on it that is in the FBI official  
5 records?

6 A. Yes, it is.

7 MR. DAVIS: Your Honor, I move to admit Exhibit 13  
8 into evidence.

9 MS. MARTINEZ: No objection, Your Honor.

10 THE COURT: It is received.

11 BY MR. BROOKS: (Continuing)

12 Q. Could you read the text of the report, or we can publish  
13 it I think is easier.

14 A. I am happy to read it from the paper. Would you like me  
15 to read it or --

16 Q. Maybe we could do both. If I could have it for the ELMO  
17 please, Agent Brooks.

18 A. Sure.

19 Q. Thank you. This is an FBI internal database, is that  
20 right?

21 A. That's correct. I am sorry, Mr. Davis, would you like me  
22 to read it?

23 Q. I think the jury can read it. Thank you very much, Agent  
24 Brooks. Let me just let the jury read the text of the first  
25 page, please.

1 If we are good, we will go to page 2.

2 Just a question, it does appear that Ms. Chittenden  
3 is informing the agent, Ms. Chittenden herself is speaking to  
4 the FBI, is that right?

5 A. I saw that as well, and it certainly could be that way.  
6 My only -- what I said earlier, sometimes banks report  
7 information as well. And if she reported it to her  
8 supervisors, potentially it came that from way. It was just  
9 unclear from the document on its face.

10 But it was either she called in herself, and it  
11 certainly makes reference to an agent, I didn't know if that  
12 meant a settlement agent or an FBI special agent.

13 Q. Okay.

14 A. I just didn't know for sure.

15 Q. Okay. We are at the last line: Ms. Chittenden has  
16 reviewed the approval letter and -- we go one more page --  
17 certifies that although the letter is signed with her name,  
18 that her signature has been obviously forged.

19 Right?

20 A. Yes, that's what it says.

21 Q. Okay. You were not in the FBI back in 2001, correct,  
22 Agent Brooks?

23 A. Nope. The next year I was, but not in 2001.

24 Q. So your squad didn't get this lead and hop on it back  
25 then?



1 A. I was not there.

2 Q. All right. Thank you. Agent Brooks, this investigation  
3 has gone on since 2009, is that right?

4 A. That's correct.

5 Q. How many people have you interviewed in this case?

6 A. It is hard to estimate, but I think probably over a  
7 hundred.

8 Q. You have been in the FBI seven-and-a-half years, right?

9 A. I have been an agent for seven-and-a-half years. I was a  
10 budget analyst for about four years before that with the FBI.

11 Q. Have you had other cases besides this one?

12 A. Yes.

13 Q. How many interviews have you done?

14 A. In total?

15 Q. In total in the case.

16 A. I am sorry, in this case or in all cases?

17 Q. Sorry, in this case.

18 A. In this case.

19 Q. In this investigation.

20 A. As I said, probably at least a hundred, maybe more.

21 Q. And have you worked with Special Agent Moriarty in the  
22 case?

23 A. Yes, I have.

24 Q. And Special Agent Moriarty is from the FDIC, is that  
25 correct?

1 A. That's correct.

2 Q. And have you had occasion to work with other federal  
3 agents in the case?

4 A. Certainly. At different times there have been other  
5 agents from my squad that have been involved and other agents  
6 from Agent Moriarty's squad.

7 Q. And have IRS agents contributed?

8 A. Certainly we had an individual or an agent from ICE  
9 helping us involved in the investigation at one point, but --  
10 correct me if you have got a document, but I do not recall the  
11 IRS.

12 Q. Was Department of Homeland Security involved?

13 A. Yes, that was Immigration and Customs Enforcement.

14 Q. Okay. Now, you are on a fraud squad, correct?

15 A. That's correct.

16 Q. And you have had lots of training in fraud cases?

17 A. That's correct.

18 Q. Would you agree with me that for business fraud, e-mail is  
19 often a very important piece of evidence?

20 A. That certainly can be.

21 Q. Would you agree with me that in many, many fraud cases one  
22 of the important investigative steps is the issuance of  
23 subpoenas and sometimes even search warrants to obtain e-mail  
24 records of business transactions?

25 A. Yes.

1 Q. And you have done that yourself in other investigations, I  
2 assume?

3 A. Yes.

4 Q. And you will agree with me that this case is also a  
5 business fraud kind of case, it is about the mortgage industry,  
6 right?

7 A. Yes, that's correct.

8 Q. It's about applications and processing and underwriting  
9 and settlement and then the sale of loans to investors, right?  
10 That's what we're investigating here?

11 A. That's correct.

12 Q. And all of those things can be expected as of about  
13 mid-2000s at least, can be expected to be accompanied by a lot  
14 of e-mail traffic, wouldn't you agree?

15 A. I think in the mid-2000s certainly there was a lot of  
16 e-mail traffic regarding loans and settlements.

17 Q. And people were e-mailing each other about the details of  
18 loans every hour of every day, right?

19 A. I am sure they probably were.

20 Q. The only e-mails you have in this case are from Rocio  
21 Benavides, is that right?

22 A. Ultimately that we have, I believe that's correct.

23 Q. And tell the jury about how you actually found the Rocio  
24 Benavides e-mails. What happened?

25 A. At some point in an interview with Ms. Benavides within

1 the last five months, we asked her if she had any e-mails with  
2 Ms. Chittenden. And she told us she would go and check. And  
3 we said, let us know.

4 And then at a subsequent interview, which was not  
5 that long ago, she said, I finally checked and I do have some.

6 And so, I went with her to check her phone. And as  
7 she was pulling them up, it turns out she had quite a few.

8 So I asked for her consent to essentially turn over  
9 her e-mail account to me so I can change the password and lock  
10 her out for a time being so that no e-mails would inadvertently  
11 get deleted, and then I could do a search of her e-mail and  
12 find any e-mails that were relevant.

13 Q. Okay. And you then went and searched her e-mails and  
14 identified relevant e-mails?

15 A. Yes. What I did was I did a search of the last name  
16 Chittenden and then printed all those e-mails.

17 Q. Did you print every e-mail that had Ms. Chittenden on it?

18 A. I did.

19 Q. And then you accurately, as you have done throughout this  
20 case, presented to Mr. Gillis those documents which he produced  
21 to us in discovery, right?

22 A. That's correct.

23 Q. All right. Now, showing you Exhibit 1, Defense Exhibit 1,  
24 there is a set of Bates stamped e-mails between Rocio Benavides  
25 and Lorene Chittenden, right?

1 A. That's correct.

2 Q. Okay. And are you holding that now in front of you?

3 A. I am.

4 Q. And can you tell, I don't ask you to look at every page,  
5 but can you tell that the Bates stamps are every single e-mail  
6 that you produced and that was produced to the defense in the  
7 case?

8 A. As far as I know, this is all the e-mails.

9 Q. There are no other e-mails that you know of, right?

10 A. Correct.

11 Q. All right, thank you. Now, what about George Mason  
12 Mortgage e-mails? What did you do about those?

13 A. We sent a subpoena to George Mason Mortgage and requested  
14 Ms. Chittenden's e-mails fairly early on in the investigation,  
15 I honestly don't remember exactly when. We certainly wanted  
16 them.

17 But George Mason Mortgage explained to us that there  
18 had been IT changes and it was going to be quite an undertaking  
19 to essentially rebuild or -- rebuild is probably the best word,  
20 her inbox. And she was no longer there, she had left in 2008.  
21 I think we probably did this somewhere in 2010.

22 And because they said it was going to be a massive  
23 undertaking, they were going to ask the Government ask to bear  
24 the cost. And so they got a cost estimate and said it was  
25 going to be somewhere in the neighborhood \$150,000 to do that.

1 Q. How much, I am sorry?

2 A. \$150,000 to do that. To go through the -- I am not an IT  
3 person, so frankly I don't know what it was going to entail,  
4 but they told us that it was going to cost approximately  
5 \$150,000 to go through the process of rebuilding Ms.  
6 Chittenden's e-mail inbox and then provide those e-mails to us.  
7 And we chose --

8 Q. So 150,000 spent four years ago, the United States  
9 government could have had a complete e-mail record of what Ms.  
10 Chittenden did at George Mason Mortgage in the relevant period  
11 of this case, but that was too much money, right?

12 A. That's correct.

13 Q. Any idea how much this investigation has cost?

14 A. I don't know.

15 Q. What about Vilchez & Associates e-mails, did they have an  
16 e-mail server?

17 A. By the time that we opened the case in 2009, Vilchez &  
18 Associates, as far as we knew, it had been shut down for a  
19 while and the office was closed. We had no real ability to get  
20 any e-mails.

21 Q. Did they have their own server, or was there e-mail on a  
22 separate ISP, do you know?

23 A. I honestly do not know.

24 Q. Do you know whether Vilchez & Associates when they came on  
25 board were given unique e-mail addresses in a Vilchez &

1 Associates domain or not?

2 A. I believe they probably were. I think potentially of all  
3 the folks that we interviewed at Vilchez & Associates, they may  
4 have mentioned e-mail addresses. But I honestly don't know a  
5 whole lot about their e-mail system.

6 Q. You didn't get that?

7 A. No.

8 Q. And what about Levy Corp., did they have an e-mail server?

9 A. I believe they had an e-mail just the same. But again, we  
10 do not have those.

11 Q. Okay. I want to ask you a little bit about these  
12 particular kinds of mortgage loans that George Mason Mortgage  
13 was selling.

14 Do you understand what the term "locked" means? That  
15 there is an investor lock at the time the loan closes?

16 A. An investor lock? Not really. The term lock in terms of  
17 a mortgage that I would be familiar with would be locking your  
18 interest rate in.

19 Q. Locks your interest rate. And I would be familiar with  
20 that too. And I am not sure I am familiar with what I was  
21 asking you about, but I am trying.

22 But were you aware that the loans that were being  
23 closed by George Mason Mortgage already had a guaranteed buyer?

24 A. I certainly think that we learned about the Countrywide  
25 portion of the way George Mason Mortgage had a relationship

1 with Countrywide, and they had a Countrywide underwriter on  
2 site, and those loans were very quickly, after being approved  
3 and funded, were then sort of automatically sold to Countrywide  
4 barring any issues.

5 Q. Sorry?

6 A. I am sorry.

7 Q. You said barring any issues?

8 A. Barring any issues in the contract between them.

9 Q. And then what would happen to those mortgage loans?

10 A. Just based on my experience, I believe that they would be  
11 probably bundled and sold in the secondary market. But I  
12 certainly can't say that I know that that happened with  
13 individual particular ones, but I think that happened with most  
14 mortgages.

15 Q. And particularly in this time in our history as a nation,  
16 right, the mid-2000s leading up to 2008, right?

17 A. You are asking if that happened at that time?

18 Q. Yes.

19 A. Yes. I think they were, as we are all aware at this  
20 point, there was a lot of bundling of mortgages going on.

21 Q. When you say bundling, are you referring to mortgage  
22 backed securities?

23 A. Yes, mortgages that were put in packages together as one  
24 security and sold on Wall Street.

25 Q. All right. And Wall Street investors are buying up these



1 mortgages that have been bundled together and made into a  
2 security, almost like a stock, right?

3 MS. MARTINEZ: Your Honor, at this point I am going  
4 to object to the relevance of this line of questioning.

5 THE COURT: I am curious as well. Are we going to  
6 get into the Wall Street frauds that were never prosecuted?

7 MR. DAVIS: It's offered as to loss and risk of loss,  
8 Your Honor.

9 MS. MARTINEZ: At some point it also goes beyond the  
10 scope of this witness' knowledge.

11 THE COURT: I am not worried about that. I will  
12 allow that. Go ahead.

13 MR. DAVIS: Thank you.

14 BY MR. DAVIS: (Continuing)

15 Q. All right. What did I ask you?

16 A. I am sorry, could you repeat the question? I don't  
17 remember.

18 Q. The point is, George Mason Mortgage made a loan to  
19 someone, but it didn't then start a 30-year relationship that  
20 most of us think of when we think about a bank and a borrower,  
21 right?

22 A. I don't think so, no. I think they sold most of their  
23 loans.

24 Q. George Mason Mortgage makes this loan and immediately  
25 sells it, right?

1 A. I think that's what happened in many cases.

2 Q. And we had some evidence about that from Mr. Bergstrom  
3 about the different fees and money that George Mason Mortgage  
4 is making when it sells that loan, right?

5 A. Yes, I believe he spoke about that. To be totally honest,  
6 I don't understand the full breadth of that.

7 Q. But you investigated this case for five years, you have  
8 familiarity with the mortgage industry that you are looking at,  
9 right?

10 A. That's correct, I certainly have familiarity with the  
11 mortgage industry.

12 Q. Okay. And George Mason Mortgage is making money every  
13 single time it closes one of those loans and it sells it to an  
14 investor, right?

15 A. I believe they are.

16 Q. Okay. Now, is it true that your first contact with my  
17 client was in 2009, December of '09?

18 A. That I recall? No. I know we interviewed her in August  
19 of 2010. If there was a prior event --

20 Q. Do you know whether or not Mr. Moriarty, your partner,  
21 contacted Ms. Chittenden in December of 2009?

22 A. If that happened, I don't recall.

23 Q. Okay. But you were there in August of 2010 to meet with  
24 Ms. Chittenden?

25 A. That's correct.

1 Q. How many agents participated in that meeting?

2 A. There were three of us.

3 Q. All men?

4 A. Yes.

5 Q. And where did the meeting occur?

6 A. At the Panera Bread Company in Fairfax.

7 Q. Okay. And you have told the jury about Ms. Chittenden  
8 telling you that she had reported Rosie Vilchez to the FBI,  
9 right?

10 A. That's correct.

11 Q. But you also talked to her about a lot other stuff, right?

12 A. Yes, we did.

13 Q. How long did that interview last?

14 A. I remember it being a lengthy interview. It was probably  
15 an hour or two, but I don't have specific recollection of  
16 exactly how long it took.

17 Q. Okay. Do you remember saying things to Ms. Chittenden  
18 during that interview with your two colleagues?

19 A. Do I remember saying things to her?

20 Q. Yes.

21 A. I am certain I said things to her.

22 Q. You are generally cordial and polite, right?

23 A. I hope so.

24 Q. Okay. Who took notes about that interview?

25 A. Special Agent Moriarty did.

1 Q. And did he write the report about that interview? Again,  
2 this is August 25, 2010?

3 A. Yes, he did.

4 Q. Okay. Do you recall telling Ms. Chittenden that it did  
5 not matter if she did not believe fraud was in the loans? Do  
6 you remember telling her that?

7 A. I am sorry, I don't.

8 Q. Did you say that to her?

9 A. Not that I recall.

10 Q. All right. Now -- and I'm sorry, I think you've already  
11 answered this, how long did that interview go?

12 A. Probably an hour or two. It was certainly a fairly  
13 lengthy interview.

14 Q. And Mr. Moriarty is writing notes the whole time about  
15 what Ms. Chittenden is saying?

16 A. Yes.

17 Q. And he produced a report about it, right?

18 A. Yes.

19 Q. The report goes on for, what, four pages?

20 A. I can refer to my report if you would like --

21 Q. Do you recall whether it is a four-page report?

22 A. It could have been three or four pages.

23 Q. Do you have it with you right now?

24 A. I do have it with me.

25 Q. Okay. If you could look, please.

1 A. You are correct, it was a four-page report.

2 Q. Okay. Now, you also talked about another conversation or  
3 really your next conversation with Lorene Chittenden, right?

4 A. Yes.

5 Q. And that was January 6 of 2012, about 18 months later or  
6 so?

7 A. That's correct.

8 Q. You are still investigating the case?

9 A. Correct.

10 Q. And you are sitting at your desk, right?

11 A. That's correct.

12 Q. What time of day?

13 A. I believe it was early evening. My recollection is I was  
14 about to go home and my phone rang.

15 Q. You had worked a long hard day, right. And so had, Ms.  
16 Chittenden, she is a worker too, right?

17 A. Correct.

18 Q. So she calls you up out of the blue?

19 A. Pretty much, yes.

20 Q. And no lawyer on a three-way call, it is just her, right?

21 A. Correct.

22 Q. She is calling Special Agent Spencer Brooks, FBI, right?

23 A. Yes.

24 Q. And she wants to ask you about this investigation and  
25 what's happening, right?

1 A. That's correct.

2 Q. And how long did you talk to her then?

3 A. It wasn't as long as the first time, but it could have  
4 been 20 or 30 minutes.

5 Q. Could it have been 72 minutes long?

6 A. It could have been.

7 Q. So could have been more than an hour long, the two of you  
8 talking on the phone, right?

9 A. Correct.

10 Q. Okay. Now, did you write notes as you spoke to Lorene  
11 Chittenden that January 6 of 2012?

12 A. I wrote one line of notes.

13 Q. And you once again faithfully preserved it and turned it  
14 over, right?

15 A. That's correct.

16 Q. What did the one line say, do you recall? Do you have it  
17 in front of you?

18 A. I don't have it in front of me.

19 Q. All right. But it was about something Lorene said, and  
20 you noted that. But that was the only thing you wrote down?

21 A. That's correct.

22 Q. But you later produced a report, right?

23 A. Correct.

24 Q. And is that later document actually a report? What is  
25 that -- that is an FBI question. It is not a 302, right?

1 A. It is a 302.

2 Q. Okay. I thought it was a different form. But anyway, you  
3 wrote up a 302, meaning an FBI interview report, of that  
4 telephone conversation with Lorene?

5 A. That's correct.

6 Q. And was that the conversation you said she raised the  
7 issue about reporting Rosie?

8 A. No.

9 Q. She had already said that to you back in August of 2012,  
10 right?

11 A. That's correct.

12 Q. Okay. Now, did you say anything to her, Ms. Chittenden,  
13 in that interview? Surely you did. You were speaking to her.

14 A. Yes. I remember that more as a conversation. She called  
15 to ask me about the status of the investigation. And I  
16 informed her that I couldn't tell her what was going on with  
17 the investigation, but it was still ongoing.

18 And I had her on the phone, so I asked her a few  
19 questions. And we really had a, sort of a back-and-forth  
20 discussion about what was going on back at her time at George  
21 Mason.

22 Q. And you said to her during that call, I know you don't  
23 think there was fraud, but I assure you there is.

24 Did you say that?

25 A. I don't recall. I remember generally the topics that we

1 discussed, but I do not recall exactly what I said.

2 Q. Could you have said that to Ms. Chittenden in  
3 January 2012? I know you don't think there was fraud, but I  
4 assure you there is?

5 A. I certainly may have said, I assure you there was fraud.  
6 But to be honest, I don't recall other than the general topics  
7 that we discussed that day.

8 Q. Your notes were limited, right?

9 A. Correct.

10 Q. Okay. Do you remember saying toward the end, you don't  
11 even believe Rosie committed fraud.

12 Do you remember saying that?

13 A. If she had responded during the conversation that she  
14 didn't believe Rosie had committed fraud, maybe I said, you  
15 don't believe Rosie committed fraud.

16 But I frankly don't have a recollection of exactly  
17 what was discussed other than the general topics.

18 Q. Okay. Let's talk about Linares because you have been  
19 interested in the Linares transaction for a long time --

20 THE COURT: Have we got a new topic coming up?

21 Why don't we take our afternoon break at this time.  
22 And we will take 15 minutes and we will come back and hear  
23 further testimony. We will break at 5:20.

24 NOTE: At this point the jury leaves the courtroom;  
25 whereupon the case continues as follows:



1 JURY OUT

2 THE COURT: All right. Let's take 15 minutes, and we  
3 will come back at quarter after.

4 And of course, you are in the middle of your  
5 testimony, so don't discuss it with anybody.

6 THE WITNESS: Yes, Your Honor.

7 THE COURT: All right. We are in recess.

8 NOTE: At this point a recess is taken; at the  
9 conclusion of which the case continues in the absence of the  
10 jury as follows:

11 JURY OUT

12 THE COURT: Ready for our jury?

13 All right, let's get our jury, Joe.

14 NOTE: At this point the jury returns to the  
15 courtroom; whereupon the case continues as follows:

16 JURY IN

17 THE COURT: All right, please be seated.

18 Mr. Davis, continue when you are ready, sir.

19 MR. DAVIS: Thank you, Your Honor.

20 BY MR. DAVIS: (Continuing)

21 Q. Agent Brooks, you testified in the grand jury in this case  
22 on November 21 of 2013, right?

23 A. That's correct.

24 Q. So just before last Thanksgiving, right?

25 A. Yes.

1 Q. And that's when Ms. Lorene Chittenden, my client, was  
2 indicted in this case, right?

3 A. That's right.

4 Q. And you were the summary case agent who presented the  
5 evidence to the grand jury, right?

6 A. That's correct.

7 Q. And when you are the summary case agent, you testify  
8 basically about the different charges in the indictment and  
9 sort of wrap it up for the grand jury to let them know what  
10 evidence is, right?

11 A. That's correct.

12 Q. And you are under oath and it is transcribed, right?

13 A. That's correct.

14 Q. And you prepare thoroughly for it, correct?

15 A. Correct.

16 Q. And you were well familiar with the indictment in this  
17 case that you were presenting to the grand jury, right?

18 A. Correct.

19 Q. You actually helped draft the indictment in this case,  
20 right?

21 A. Yes.

22 Q. Okay. And one of the things that you were asked about was  
23 the Linares deal, which involved the amended tax return, right?

24 A. Okay.

25 Q. And you told the grand jury -- you summarized the evidence

1 about that amended tax return for the grand jury, right?

2 A. I may have. I don't remember which exact transactions I  
3 spoke of, but --

4 Q. I have the transcript provided in discovery, if you wish.

5 Let me ask you if you said this. You said: We're  
6 told by David Levy that he was present when the Realtor working  
7 for him that handled this deal, a gentleman names Francisco  
8 Ramos -- I am sorry, it's Page 24 -- got a phone call from Ms.  
9 Chittenden saying, we've got to get those tax returns filed  
10 because we've got a big problem, the investor realized that  
11 there were fake tax returns in the file, so we've got to get  
12 them filed to sort of shore this up and try to correct it, end  
13 quote.

14 Right?

15 A. If that's what the transcript said, sure.

16 Q. Let me show you -- I am not marking it, although I am  
17 happy to, but let me just show you page 24 of your grand jury  
18 transcript. And I am happy to let you keep that.

19 A. Okay.

20 Q. That's what you said on November 21, just last fall,  
21 right?

22 A. Yes.

23 Q. When the grand jury is getting evidence to indict Ms.  
24 Chittenden?

25 A. Yes.

1 Q. Now, was that accurate?

2 A. I think so.

3 Q. Well, let's review your investigation on the point. Mr.  
4 Levy was someone early on who was talking to you in January of  
5 2012, right?

6 A. I believe that's when he first started cooperating.

7 Q. And you wrote reports about interviewing Mr. Levy in  
8 January of 2012, correct?

9 A. I know that's when he started cooperating. He was  
10 interviewed many times.

11 Q. And do you recall Mr. Levy telling you that first  
12 interview, January 11 of 2012 -- I am sorry. You were not  
13 present at that interview, were you?

14 A. The David Levy case was technically another case agent.  
15 The cases were sort of merged at the U.S. Attorney's Office.  
16 So I wasn't present for some of his initial cooperation  
17 meetings. I certainly was at future ones and met him.

18 Q. And Agent Moriarty was present and Agent Moriarty wrote  
19 this particular report, right?

20 A. That looks like an FDIC document.

21 Q. And you have read this report many times because this is  
22 one of the first -- this is the first report for David Levy in  
23 this investigation, correct?

24 A. I certainly have read it.

25 Q. Right. Your report showed -- or not your report, but Mr.

1 Moriarty's report showed that Mercado had been indicted -- and  
2 Mercado was the Union Hispana head guy, right?

3 A. Osvaldo Mercado was the owner of Union Hispana  
4 Multiservices.

5 Q. Right. He was one of the tax letter persons, right?

6 A. Correct. He owned and operated that business.

7 Q. And he pleaded guilty in this investigation?

8 A. That's correct.

9 Q. Mr. Levy told the investigators that he had read the  
10 indictment about Mr. Mercado, and in that indictment was the  
11 Linares transaction, right?

12 Do you recall that?

13 A. If that's what he said in that interview?

14 Q. Yes. I will show it to you if you like.

15 A. I am sorry, there was a lot of Mr. Levy interviews. I  
16 think that sounds correct.

17 Q. Does that refresh your recollection as to the first Mr.  
18 Levy interview, January 11 of 2012?

19 A. Yes.

20 Q. Okay. Now, hang on to that, if you would. Mr. Levy said  
21 in that interview, and again this is January 2012, he said  
22 three months ago Levy contacted Ramos and asked him about the  
23 Linares deal, right?

24 A. Okay.

25 Q. Do you see it in that report?

1 A. It is multiple pages, I will be happy to look for it.

2 Q. Do you see that?

3 A. Yes, I do.

4 Q. So David Levy is telling the investigators, first meeting,  
5 that three months ago he talked to Ramos and Ramos told him  
6 about this deal, right?

7 A. Yes.

8 Q. So he is talking about the fall of 2011, right? He is  
9 saying he had a conversation with Ramos in the fall of 2011  
10 about Linares, right?

11 A. Yes.

12 Q. Fair, right? That's what that says?

13 A. That's correct.

14 Q. Okay. And he says further, he says that Ramos told Levy  
15 that three weeks prior to the deal closing he, that is Ramos,  
16 received a call from Lorene Chittenden, and Chittenden told  
17 Ramos that he needed to get Linares' tax returns amended before  
18 this deal could be approved, right?

19 A. Right.

20 Q. And please check it. You have got it in front of you,  
21 right? It's Mr. Moriarty's report. Your investigation.  
22 Right?

23 A. That's what it says.

24 Q. So Levy is telling the investigators that he talked to  
25 Ramos in the fall of 2011 and that Ramos told him that three

1 weeks before the closing in the Linares transaction he received  
2 a call from Lorene Chittenden saying he needed to get the tax  
3 returns amended before the deal could be approved, right?

4 A. Yes.

5 Q. All right. Now, we know now that doesn't make any sense,  
6 right? Strike that.

7 We know that amended tax returns already had been  
8 provided to George Mason Mortgage and Lorene Chittenden before  
9 the deal closed because they are in the loan file. And Kerri  
10 Thomas has reviewed and initialed them. And that deal closed  
11 August 17 of 2006. Right?

12 MS. MARTINEZ: Objection, compound question, Your  
13 Honor. There is more information there --

14 THE COURT: If you understand the question, you can  
15 answer it.

16 A. Sorry, Mr. Davis if you don't mind repeating.

17 BY MR. DAVIS: (Continuing)

18 Q. It was a long question, sorry. I want to make sure I have  
19 my year right. Was it 2006 or 2007?

20 A. It was 2007.

21 Q. It was one of the last deals, correct?

22 A. Right.

23 Q. August 17 of 2007 is the closing of the Linares deal,  
24 right?

25 A. That's correct.

1 Q. And in the file that has long since gone through Lorene  
2 Chittenden, loan officer, and also gone through Kerri Thomas,  
3 processor or underwriter, and settlement, in that file is an  
4 amended tax return already, right?

5 A. That's correct.

6 Q. As of August 17, and certainly before that because it has  
7 been -- it closes on August 17, right?

8 A. Correct.

9 Q. And that's an amended tax return. And we know that  
10 because the amount claimed for Ms. Linares, the income amount  
11 is something like \$86,000, which is a lot more than she made  
12 that year, right?

13 A. That's correct.

14 Q. That's not the true return? That's the amended return and  
15 it's already in the file?

16 A. That's correct.

17 Q. Okay. So, Levy is telling you guys January 11 of 2012  
18 that he happened to talk to Ramos back in the fall of 2011 and  
19 Ramos said that three weeks before the deal closed, which would  
20 have been the end of July 2007, right? That's about three  
21 weeks before August 17, right? He is saying three weeks before  
22 that deal closed he received a call from Lorene Chittenden?

23 MS. MARTINEZ: Your Honor, counsel is not even  
24 stopping and waiting for answers, he is just testifying at this  
25 point.



1 THE COURT: Sorry, one more time.

2 MS. MARTINEZ: He is not evening stopping and waiting  
3 for answers. He is just testifying.

4 THE COURT: Okay. Ask questions.

5 BY MR. DAVIS: (Continuing)

6 Q. All right. We get the point, right? The deal had already  
7 closed August 17, right?

8 A. That's the closing date.

9 Q. And amended tax returns had long since already been in  
10 that file, right?

11 A. Not her true tax returns, yes.

12 Q. Yes. But Levy is telling you that he talked to Ramos in  
13 late 2011, and that there had been this call, and the tax  
14 returns needed to be amended before the deal could be approved,  
15 right?

16 A. Correct, that's what he says.

17 Q. Okay. And then, of course, we also know that there was a  
18 trip on September 1 because Ms. Linares remembers it, right?  
19 And that was to go and sign the tax returns, right?

20 A. That's correct.

21 Q. And file them?

22 A. Correct.

23 Q. Okay. That happened September 1, which was two weeks  
24 after the closing, right?

25 A. Correct.

1 Q. Okay. But that wasn't the only statement Levy made to you  
2 guys in the many, many interviews you had with David Levy,  
3 right?

4 A. That's correct.

5 Q. Okay. And then on March 1 of 2012 Mr. Levy talks about  
6 the same subject. Do you recall that interview? I think you  
7 were present, and you have it in the stack that I gave you.  
8 March 1 of 2012.

9 Do you see that interview report?

10 And do you recall whether Ramos, according to Levy on  
11 that date, Ramos told Levy that Chittenden called Ramos a week  
12 or two before the closing and told Ramos that Linares did not  
13 qualify for the loan and that Linares needed to get her taxes  
14 amended.

15 A. I apologize, I was looking for the report. I think I  
16 heard most of that, but if you can give me just a second.

17 Q. Do you mind finding the March 1 report?

18 A. I have got the March 1 report.

19 Q. Okay. Do you see the reference to the Linares deal?

20 A. I do.

21 Q. Okay. And do you recall that Levy was again talking about  
22 Ramos talking to him?

23 A. That's correct.

24 Q. Okay. That was March 1 of 2012, right?

25 A. Correct.

1 Q. Now, you also interviewed Mr. Francisco Ramos, right?

2 A. I don't think I did that interview, but I know that he was  
3 interviewed over the phone, I believe.

4 Q. There was a telephone interview of Francisco Ramos in July  
5 of 2013, right?

6 A. That sounds about right.

7 Q. And that was Special Agents Moriarty and Connor?

8 A. Yes.

9 Q. Okay. And I will show you that as well. That was part of  
10 your investigation and part of the reports that you were  
11 reviewing?

12 A. Correct.

13 Q. Okay.

14 A. Okay.

15 Q. Mr. Francisco Ramos at the time was in Canada, right?

16 A. That's correct.

17 Q. And as far as we know, that's where he is still today,  
18 right?

19 A. That's right.

20 Q. Probably not coming back to the United States voluntarily  
21 any time soon, is that fair?

22 A. Most likely.

23 Q. All right. On July 11 of 2013 Mr. Ramos told the agents  
24 that he did not remember getting a call from Lorene Chittenden,  
25 right?

1 A. That's what he said.

2 Q. He was specifically asked about this, right?

3 A. He was.

4 Q. And he's the guy that actually had the conversation  
5 supposedly, right?

6 A. Correct.

7 Q. Okay. And then there was another interview with Mr. Levy  
8 going back to your pile --

9 THE COURT: Mr. Davis, do you think this is proper?  
10 You are trying to impeach --

11 MR. DAVIS: Your Honor, I am trying to impeach the  
12 grand jury testimony -- and this is the last one. And this is  
13 -- I am trying to impeach the accuracy --

14 THE COURT: Using different statements that Linares  
15 made? He is a fugitive and a defendant?

16 MR. DAVIS: Ramos.

17 THE COURT: Oh, Ramos. Using Linares' statements?

18 MR. DAVIS: I am sorry, if I used Linares, I  
19 misspoke. This is Ramos' statement.

20 THE COURT: Okay. All right. Go ahead.

21 MS. MARTINEZ: Your Honor, just to clarify, Ramos is  
22 the person who is in Canada.

23 THE COURT: Okay. All right.

24 MR. DAVIS: This is the last one I want to ask about.

25 BY MR. DAVIS: (Continuing)

1 Q. David Levy talked to you again on October 1 of 2012 about  
2 this supposed conversation with Ramos, right?

3 A. Yes.

4 Q. And this time the beach came up, right?

5 A. If I can refer to the report for that particular  
6 reference.

7 Q. Please.

8 A. But I remember that he told us about being with Mr. Ramos  
9 on a vacation.

10 Q. At a beach, right?

11 A. At a beach. I am sorry, the date of that?

12 Q. October 1, 2012.

13 A. That's correct.

14 Q. Okay. So on October 1, 2012, David Levy tells you that  
15 Lorene Chittenden called Ramos -- it's now one to two weeks  
16 before the Linares loan closed -- to tell Ramos that Linares  
17 did not qualify and her tax returns needed to be amended.

18 And David Levy said then, Ramos and Levy were  
19 together at the beach when Ms. Chittenden called Ramos.

20 Right?

21 A. Yes, that's what he said.

22 Q. And David Levy also said that Ramos currently has the same  
23 cellular telephone number that he had when he worked at Levy  
24 Corporation, right?

25 A. Yes.

1 Q. And that's all in the report, October 1 of 2012, right?

2 A. Correct.

3 Q. Now, would you agree with me, that's the first time in  
4 this whole investigation that David Levy is claiming that this  
5 conversation with Ramos, which is so critical to the case,  
6 occurred back when it was happening, back before the Linares  
7 deal closed, back in 2007, right?

8 A. It's the first time he is saying he is present, is that  
9 what you are saying?

10 Q. Yes.

11 A. Yes.

12 Q. And that he was present at the very same time Ms.  
13 Chittenden was calling, right?

14 A. Correct.

15 Q. And did David Levy say in that report to you that he could  
16 hear exactly what Lorene Chittenden was saying?

17 A. No, I don't think so.

18 Q. He didn't say that, did he?

19 A. No.

20 Q. All right. Now, up until then you had always thought that  
21 David Levy's first conversation with Ramos on this subject was  
22 the fall of 2011?

23 MS. MARTINEZ: Your Honor, at this point we are going  
24 to object to this line of impeachment and this continued  
25 questioning.

1 MR. DAVIS: I am almost done, Your Honor.

2 THE COURT: You told me that three or four minutes  
3 ago and you have been going strong, Mr. Davis. Let's wrap it  
4 up.

5 MR. DAVIS: All right.

6 BY MR. DAVIS: (Continuing)

7 Q. Did you do a cell phone check?

8 A. For?

9 Q. For a call from Lorene Chittenden to Francisco Ramos at a  
10 beach vacation in 2007?

11 A. No, I don't think we have those records.

12 Q. Have you done a travel records check to prove that David  
13 Levy was at a beach vacation with Francisco Ramos when some  
14 conversation occurred that he is telling you about in October  
15 of 2012?

16 A. I have not. My understanding is that was a nearby  
17 location, I thought, and not somewhere where they would have  
18 flown to.

19 Q. Have you done anything to corroborate Mr. Levy's third  
20 story about this conversation with Ramos when he moves it four  
21 years back in time?

22 MS. MARTINEZ: Your Honor, I object to this line of  
23 questioning.

24 THE COURT: Overruled. Last question. You can  
25 answer that question.

1 A. Forgive me, Mr. Davis, what's the last question?

2 THE COURT: Did you do anything to corroborate the  
3 conversation that Levy said he had with Ramos at the beach?

4 THE WITNESS: No.

5 THE COURT: That there was a telephone call from Ms.  
6 Chittenden.

7 MR. DAVIS: Beyond talking to Mr. Levy about it, no.

8 THE COURT: All right, let's move on. Move on.

9 MR. DAVIS: All right, Your Honor.

10 BY MR. DAVIS: (Continuing)

11 Q. When you were in the grand jury, do you recall being asked  
12 whether any of the transactions in the indictment had resulted  
13 in a -- in the loan being sent back by the investor?

14 Do you recall being asked that?

15 A. I am sorry, I don't recall the specific questions, but I  
16 probably was.

17 Q. I think you have my copy of the transcript. Do you see  
18 page 36?

19 Let me just ask, do you know as you sit there whether  
20 any of these loans was the subject of a -- when I say these  
21 loans, I mean the loans that are charged in this indictment  
22 before this jury. Whether any of those loans was the subject  
23 of a buy-back request by any investor?

24 A. Off the top of my head, I can't recall of any of these  
25 particular loans being buy-backs. The loan that I discussed in



1 the grand jury that you are asking me about is the Zenaida  
2 Linares transaction. And I believe that my words were it  
3 ultimately wasn't purchased by Countrywide.

4 Which is my understanding of what happened, that they  
5 denied the purchase after doing the 4506-T before they  
6 purchased it.

7 Q. When the investor, which was Countrywide, found out that  
8 the tax return hadn't even been filed, right?

9 A. Correct.

10 Q. All right. You said to the grand jury on page 36: The  
11 only one I can think of off the top of my head is the Zenaida  
12 Linares transaction.

13 Is that right?

14 A. That's what I said.

15 Q. Okay. May I have back, please, my reports.

16 A. Sure.

17 MR. DAVIS: Thank you. Nothing further.

18 THE COURT: All right. Thank you. Any redirect?

19 MS. MARTINEZ: Yes, Your Honor.

20 REDIRECT EXAMINATION

21 BY MS. MARTINEZ:

22 Q. Agent Brooks, keeping your attention on the Zenaida  
23 Linares file, is the amended return that is in that file signed  
24 and filed, or just something that was in the loan file?

25 A. It was not signed and filed. It was just in the loan

1 file.

2 Q. Were you present for Mr. Levy's testimony in court?

3 A. I was.

4 Q. Did you hear him testify about a phone call between the  
5 defendant and Mr. Ramos in 2007?

6 A. Yes.

7 Q. And in the course of interviews in this investigation with  
8 Mr. Levy, has Mr. Levy also recounted that 2007 call during one  
9 or more of his interviews?

10 A. Yes.

11 Q. Do you understand -- and have you also heard about a 2011  
12 call that counsel asked you about? That Mr. Levy recounted  
13 during one of his interviews between him and Mr. Ramos?

14 A. Yes.

15 Q. Is it your understanding that that call in 2011 and the  
16 call in 2007 are separate calls?

17 MR. DAVIS: Objection, leading.

18 THE COURT: Well, I am going to allow the question.  
19 If he can't answer that a call in 2007 is different than a call  
20 in 2011 -- you mean the substance of the call?

21 MS. MARTINEZ: That they were separate calls.

22 THE COURT: Just that they were separate calls?

23 MS. MARTINEZ: Yes, Your Honor.

24 THE COURT: You can answer that question.

25 A. Yes. There was, based on what Mr. Levy said, there was a

1 phone call that happened in approximately the fall of 2011.  
2 And he later discussed -- the topic of that discussion on that  
3 call, I believe it was the same substance of the other calls  
4 that he discussed in 2007.

5 BY MS. MARTINEZ: (Continuing)

6 Q. Can we show the witness Government's Exhibit 40-Z1 on the  
7 screen.

8 Were you involved in obtaining this document in the  
9 course of your investigation?

10 A. Yes, I was.

11 Q. Where did it come from?

12 A. Zenaida Linares gave it to us.

13 Q. And would you say that this document corroborates  
14 communication between the defendant and Ramos regarding  
15 Linares' tax returns back in 2007?

16 A. Yes.

17 Q. Counsel also asked you about a number of interviews, many  
18 interviews that you conducted in the course of this  
19 investigation. Do you recall that?

20 A. I do.

21 Q. Focusing particularly on people whom you interviewed who  
22 were communicating directly with the defendant about loan  
23 transactions, did those people indicate how they typically  
24 communicated with the defendant, what method of communication?

25 MR. DAVIS: Objection. It is so general as to be not

1 probative of anything, Your Honor.

2 THE COURT: Well, it is certainly hearsay.

3 MS. MARTINEZ: Your Honor, it is not being offered  
4 for the truth of the matter asserted, but Agent Brooks was  
5 attacked for his methods in collecting e-mails ad nauseam  
6 before the break, and this is to explain his investigative  
7 tactics.

8 THE COURT: Ask him based on his investigation how he  
9 believed that the customers communicated with the loan  
10 officers.

11 BY MS. MARTINEZ: (Continuing)

12 Q. Based on your investigation, interviews or otherwise, do  
13 you have an understanding of how the folks who communicated  
14 directly with the defendant about individual loan transactions,  
15 be they real estate agents or borrowers, how they typically  
16 communicated with the defendant?

17 A. Mostly via fax. Sometimes via e-mail.

18 Q. And did that understanding influence the way that you  
19 conducted your investigation?

20 A. We believed that a lot of the loan transactions and  
21 documentations were faxed and not e-mailed, but we still  
22 pursued e-mails if we thought some were there.

23 Q. Did you collect documentation that had been sent over fax?

24 A. Yes.

25 Q. Have we seen a lot of that in court?

1 A. Yes.

2 Q. I would like to ask you about the phone call that you had  
3 with the defendant that counsel asked you about as well.

4 At the time that the defendant called you, was she a  
5 target of the investigation?

6 A. Yes.

7 Q. And at the time of that phone call, did you believe that  
8 she didn't know about the fraud?

9 A. No, I believe she knew.

10 Q. How long after that phone call did you write your report?

11 A. Either that -- I believe I started it that evening.

12 Q. Do you usually write your reports the same evening as an  
13 interview?

14 A. Not typically.

15 Q. Why did you do that in this case?

16 A. Because it had been a phone call or interview of a subject  
17 of an investigation. And it was really a back-and-forth  
18 conversation on the phone, not an interview where I was taking  
19 a lot of notes, clearly because I only took really one line of  
20 notes. So I wanted it to be fresh in my mind, so I started  
21 writing it pretty much right away.

22 MS. MARTINEZ: Thank you. No further questions, Your  
23 Honor.

24 THE COURT: All right. You can resume your seat,  
25 sir. Thank you.

1 THE WITNESS: Thank you, Your Honor.

2 NOTE: The witness stood down.

3 THE COURT: Government have any other witnesses?

4 MS. MARTINEZ: We have no further witnesses, Your  
5 Honor. I would offer again the exhibits that the objection was  
6 held on. 71-C, 72-C, 73-C, 76-C, 77-C, 78-C, 78-M, 79-C.

7 THE COURT: All right.

8 MR. DAVIS: No objection.

9 THE COURT: All right, they will all be received.

10 All right. Let me have you take a break while we  
11 talk about some different matters, and we will get you back  
12 here as soon as we can. All right.

13 Thank you, you are excused at this time.

14 NOTE: At this point the jury leaves the courtroom;  
15 whereupon the case continues as follows:

16 JURY OUT

17 THE COURT: Okay. Any motion, Mr. Davis?

18 MR. DAVIS: Yes, Your Honor. If I may have just a  
19 moment.

20 THE COURT: Yes, sir.

21 MR. GILLIS: Your Honor, I have -- I didn't  
22 understand that we had rested. I have one more exhibit that --

23 THE COURT: Go ahead.

24 MR. GILLIS: -- I would like to introduce. It's  
25 Exhibit 40-Z2. It's an e-mail from the loan file for the

1 Zenaida Linares transaction. And we have a 902(11)  
2 certification for those loan files. And I believe that at  
3 least with respect to the authenticity and business record  
4 nature of it, that we have agreed upon that. Of course, they  
5 have reserved on relevance.

6 But we submit that since it relates directly to this  
7 transaction, it should be admitted.

8 MR. ROSS: 40-Z2?

9 MR. GILLIS: 40-Z2? 40Z, as in Zebra, 2.

10 MR. DAVIS: It is a two-page document?

11 MR. GILLIS: It is, yes, that's correct.

12 MR. DAVIS: No objection.

13 THE COURT: All right. It is received.

14 MS. MARTINEZ: Your Honor, we now rest.

15 THE COURT: Thank you.

16 MR. DAVIS: Should I proceed, Your Honor.

17 THE COURT: Yes, sir.

18 MR. DAVIS: Your Honor, the defendant moves for a  
19 judgment of acquittal pursuant to Rule 29 of the Rules of  
20 Criminal Procedure.

21 First, with respect to Count 1, the conspiracy count,  
22 on the ground that no reasonable jury could find this defendant  
23 guilty of membership in the conspiracy charged in Count 1.

24 At most, the Government has proved different  
25 conspiracies, different individual conspiracies, one with Rocio

1 Benavides, again giving all inferences in favor of the  
2 Government, as the Court must at this point, and another with  
3 Levy Corporation. But none of the transactions proved is in  
4 furtherance of the conspiracy charged in Count 1.

5           The charged conspiracy includes 44 overt acts. The  
6 Government failed to introduce any evidence of about 37 of  
7 those 44 overt acts. And the remaining seven that evidence was  
8 introduced on, which we, of course, vigorously dispute, but  
9 those remaining seven involve two people. One was Levy and his  
10 company long after he left Vilchez & Associates. And the other  
11 was Rocio Benavides after she left Vilchez & Associates.

12           There was no evidence and there is no evidence that  
13 Levy and Benavides at that point in late 2006/2007 had any  
14 ongoing connection with Vilchez & Associates, any  
15 communications with them, and existed as anything other than  
16 competitor Realtors doing separate deals.

17           Now, the reason I raise this unusual motion is  
18 because the manner and means of Count 1 are quite specific in  
19 this case. And they over and over again emphasize and require  
20 the involvement of Vilchez & Associates and Vilchez &  
21 Associates employees.

22           The one exception really is paragraph 20. And  
23 paragraph 20 talks about targeting Hispanic clients who were  
24 not proficient in spoken or written English and, therefore,  
25 were unable to read and unaware of the false statements made.



1 But all of the other manner and means are more  
2 specific than that. Paragraph 19 talks about the defendant  
3 submitted and directed Vilchez & Associates employees to submit  
4 fraudulent loan documents with material misstatements.

5 Paragraph 21 talks about Rosie Vilchez routinely  
6 directing Vilchez & Associates employees to attend events  
7 frequented by members of the Hispanic community in Northern  
8 Virginia and to obtain from them information to be used by a  
9 Vilchez & Associates call center, which I still don't I think I  
10 have ever heard of, in Trujillo, Peru that would and did  
11 solicit them to purchase real estate.

12 Paragraph 23 talks about the defendants creating and  
13 directing Vilchez & Associates employees to create fraudulent  
14 verifications of employment and verifications of deposit that  
15 were submitted to the lenders.

16 Paragraph 23 talks about the defendants obtaining and  
17 directing Vilchez & Associates employees to obtain fraudulent  
18 tax preparer letters.

19 Paragraph 24 talks about holding meetings with  
20 Vilchez & Associates employees to discuss then current  
21 difficulties they were having in qualifying their clients.

22 And paragraph 25 talks about to make it appear to  
23 lenders that Vilchez & Associates clients had sufficient assets  
24 to qualify for a loan, the defendants directed the Realtors and  
25 processors to find a family member or friend of the client and

1 add the client's name to the account.

2           The last manner and means paragraph relevant is  
3 paragraph 26. And that talks about directing Vilchez &  
4 Associates employees to temporarily deposit funds from Vilchez  
5 & Associates into clients' accounts, et cetera, et cetera.

6           It also talks about defendant Edgar Vilchez, again no  
7 evidence as far as I recall, also temporarily deposited funds  
8 from his own bank account into clients' bank accounts for the  
9 same purpose.

10           Your Honor, on this evidence given what has actually  
11 been proved involving Lorene Chittenden, no reasonable juror  
12 could find prove beyond a reasonable doubt of my client's  
13 membership in or agreement to join that conspiracy that is  
14 charged in Count 1.

15           And we respectfully submit that the evidence is  
16 insufficient.

17           And further, that to permit this jury to convict  
18 Lorene Chittenden of membership in the conspiracy charged in  
19 Count 1 would be to permit an impermissible constructive  
20 amendment in violation of the Fifth Amendment grand jury right.

21           This case has changed and morphed so entirely that  
22 this is a constructive amendment case, not just a variance.

23           Lastly, Your Honor, we would note for the record that  
24 the evidence is insufficient to show that the alleged wire  
25 fraud object affected a financial institution since George

1 Mason Mortgage is not a financial institution. Cardinal Bank  
2 is, although it did not even acquire George Mason until  
3 July 2004, which is two-and-a-half years into the charged  
4 conspiracy.

5 And there is no evidence that any of the few acts  
6 proved in furtherance of this conspiracy affected Cardinal Bank  
7 at all. And Cardinal Bank is the only financial institution  
8 identified in the indictment.

9 The only property that was the object of the alleged  
10 mail fraud is the garden variety commissions, commissions that  
11 were paid to Realtors and commissions that were paid to Lorene  
12 Chittenden. And there is insufficient evidence to find that  
13 there is an effect within the meaning of the mail fraud statute  
14 and the accompanying statute of limitations for this jury to  
15 find prove of that object, the mail fraud object of the  
16 conspiracy.

17 Your Honor, for all those reasons, we -- and again,  
18 we understand that the burden is a very heavy one, but a fair  
19 reading of that indictment and all of the overt acts alleged  
20 and all the manner and means charged compared to what was  
21 actually proved in this case says that they didn't prove it.  
22 And that if there is a conspiracy here, these are multiple  
23 separate conspiracies, but the defendant is entitled to be  
24 acquitted on Count 1.

25 Now I can address -- I also want to address the other

1 counts more briefly.

2 THE COURT: Okay. Go ahead. Do it all now.

3 MR. DAVIS: Your Honor, a brief -- the defendant  
4 moves for a judgment of acquittal on Count 14, which is Mr.  
5 Carranza. Mr. Carranza in Count 14 is the Exhibit 56 series.

6 That series is the only one that shows a SunTrust  
7 approval and SunTrust underwriting of the loan. The other  
8 loans in the Government's exhibits have Exhibit M series  
9 numbers, and these are the underwriting summaries and  
10 transmittals. And these show that there were, at least  
11 arguably they show that there was material information in the  
12 loans that went through Countrywide and went through George  
13 Mason Mortgage that is material to the underwriting guidelines  
14 being applied.

15 There is no evidence in this case, and there is no  
16 document in the case as to Count 14 that shows what the  
17 underwriting guideline standards were that shows what was  
18 important to SunTrust and what wasn't important. And there was  
19 no testimony on behalf of SunTrust in this case.

20 So there is no evidence on what actually influenced  
21 the underwriting approval decision.

22 Materiality, of course, is an element of Count 14,  
23 Your Honor, and we would move to dismiss.

24 Lastly, Your Honor, as to all of those substantive  
25 counts, which are 11 through 16 and 18 through 25, the

1 defendant moves for a judgment of acquittal on each count for  
2 failure to prove -- to offer sufficient evidence that would  
3 allow a finding of guilty.

4 First of all, on execution or attempted execution of  
5 a scheme or artifice to defraud Cardinal Bank. There is no  
6 evidence in this case that any co-conspirator targeted Cardinal  
7 Bank, looked at Cardinal Bank, understood Cardinal Bank's  
8 relationship with George Mason Mortgage, and in any other way  
9 executed a scheme to defraud Cardinal Bank. The only evidence  
10 is about George Mason Mortgage.

11 THE COURT: It's a subsidiary of Cardinal Bank,  
12 right?

13 MR. DAVIS: Which is a wholly-owned subsidiary as of  
14 July 2004 and certainly for all of the substantive counts.  
15 But, Your Honor, that is not enough. And I would direct the  
16 Court to the United States versus Bennett, B-e-n-n-e-t-t. I am  
17 sorry, I don't have -- I think I have it in my hotel room. But  
18 that's -- the Government is prepared. The Government will  
19 respond.

20 But that's a Ninth Circuit case, 621 F.3d, 1131, Your  
21 Honor. But it analyzes this question in this context regarding  
22 a wholly-owned subsidiary situation. And the issue is in part  
23 subjective intent. And as the defendant has proffered as I  
24 think the jury instruction clearly needs to be, these  
25 defendants, and this defendant particularly, has to have a

1 specific intent to defraud Cardinal Bank.

2           There is no evidence of an intent to defraud Cardinal  
3 Bank. And based on Bennett and also based on United States  
4 versus that Nkansah, which is N-k-a-n-s-a-h, 699 F.3d 743,  
5 which is the Second Circuit 2012, the Government's case fails  
6 on that ground.

7           Similarly, we would argue and do argue that there is  
8 no execution or attempted execution of a scheme or artifice to  
9 obtain money or property owned by or under the custody or  
10 control of Cardinal Bank by means of false or fraudulent  
11 statements.

12           That argument is twofold. First, that the money and  
13 property that are the object of this alleged bank fraud scheme  
14 are the money and property of George Mason Mortgage. And there  
15 is no evidence to the contrary. These again are just basic  
16 commissions. That's what the bank fraud is executed to do and  
17 that's what they obtained.

18           In addition, the law -- and this is a very  
19 interesting issue because it is now on appeal to the Supreme  
20 Court in the Loughrin case, I think it is. It is a case that  
21 has been argued and will be decided this term. It is not  
22 exactly like our case, but it is close. But another issue in  
23 the case is whether under 1344 the false or fraudulent  
24 statement that is alleged must be submitted to the financial  
25 institution as opposed to some other entity.

1           And in our case we don't -- well, let me add that the  
2 Solicitor General in that Supreme Court case has suggested that  
3 the proper reading of 1344(2) is to require that the defendant  
4 know that the false or fraudulent statement being made at least  
5 in the ordinary course will be presented to the financial  
6 institution and could affect what it does.

7           In this case, in these unique facts, which are about  
8 loans that are securitized, locked, sold, go out the door, and  
9 go downstream to investors at a profit to George Mason every  
10 single time, there is no evidence or there is insufficient  
11 evidence that a false or fraudulent statement, which again  
12 assuming there is a false or fraudulent statement on these loan  
13 apps, would be presented to Cardinal Bank in the ordinary  
14 course of financial affairs and could affect its dealings.

15           And so for that reason, Your Honor, the Government  
16 has not proved under either 1344(1), which requires a scheme to  
17 defraud, or a financial institution, which is Cardinal Bank, it  
18 hasn't proved it and 1344(1) or (2), and we respectfully ask  
19 for dismissal of all of the substantive Counts 11 through 16  
20 and 18 through 25.

21           Thank you.

22           THE COURT: Thank you. Ms. Martinez.

23           MS. MARTINEZ: Your Honor, I will attempt to respond  
24 to those arguments approximately in the order that they were  
25 made.

1 THE COURT: All right.

2 MS. MARTINEZ: Certainly feel free to interrupt me if  
3 I am missing anything or if you have questions, Your Honor.

4 First, with respect to the conspiracy count, Count 1.  
5 Counsel I understood raised, in essence, three separate issues  
6 there. The first thing that I will point out there is that  
7 1349 does not actually require an overt act. It is not an  
8 element of 1349.

9 So although there are certainly overt acts listed in  
10 the long indictment, in the speaking indictment, and we have  
11 proven some and not all of those, there is not an overt act  
12 required in order to prove 1349 and to get over the Rule 29  
13 bar.

14 Nonetheless, we have proved a number of the overt  
15 acts listed in the conspiracy. But counsel is completely right  
16 that there are a number of things in this lengthy indictment  
17 that were not offered into evidence. That does not mean that  
18 this conspiracy -- that a different conspiracy has been proven.

19 Quite the contrary. There is only one defendant on  
20 trial here, and there were multiple people indicted, and Rosie  
21 Vilchez is one of those people. Conspiracy law is quite clear,  
22 as Your Honor well knows, that co-conspirators don't have to be  
23 involved or even know about every aspect of the conspiracy.

24 So it's quite natural when there is only one  
25 defendant on trial --



1           THE COURT: His argument is the manner and means of  
2 the conspiracy, beyond the fact that only seven of the overt  
3 acts referenced are -- there is any proof of it, but his  
4 argument is that the manner and means goes to the conspiracy  
5 between Rosie Vilchez and others, including the defendant. And  
6 the acts that you proved went to Levy and company and Ms.  
7 Benavides. And that the manner and means demonstrates that  
8 that was the focus of this conspiracy and that your evidence  
9 doesn't fit.

10           MS. MARTINEZ: Yes, Your Honor, absolutely. With  
11 respect to that, there has been numerous testimony about the  
12 conspiracy, about the exact manner and means that are listed  
13 here, beginning on page 7 and extending on to page 8 of the  
14 indictment.

15           Roughly in order of testimony, Rocio Benavides  
16 testified at length about her experience while working at  
17 Vilchez & Associates. She also testified about transactions  
18 that she engaged in after that, which was a continuation of  
19 that conspiracy, continuation of the exact same scheme, the  
20 exact same manners and means between her and the defendant.  
21 But she testified at length about what was going on at Vilchez  
22 & Associates.

23           Levy testified about that as well. And as you know  
24 from the testimony, both Levy and Benavides got their start at  
25 Vilchez & Associates and carried on those same tactics as they

1 left on their own.

2 Looking specifically at the manners and means of the  
3 conspiracy, the first one is defendants and their  
4 co-conspirators would and did submit and direct Vilchez &  
5 Associates employees to submit fraudulent loan documents.

6 Certainly we have shown that this defendant and her  
7 co-conspirators did submit fraudulent loan documents that  
8 materially misstated the borrowers' employment, income, assets,  
9 intent to occupy the premises, and citizenship status. All of  
10 that has been presented in multiple transactions throughout  
11 this case.

12 Paragraph 20. The defendants and their  
13 co-conspirators would and did target Hispanic clients, and that  
14 goes on. That has certainly been shown by the numerous  
15 borrowers who spoke in Spanish with the aid of a translator in  
16 court. As well as from the testimony of the Realtors, in  
17 particular David Levy and Rocio Benavides.

18 21 is specifically about Rosie Vilchez. I don't see  
19 any particular reason that we need to prove what the  
20 co-conspirator who is not on trial directed employees to do.  
21 Although I will say that Rocio Benavides did talk about Rosie  
22 Vilchez directing employees at Vilchez & Associates.

23 22, to substantiate the false statements in the loan  
24 applications, the defendants and their co-conspirators would  
25 and create and direct Vilchez & Associates employees to create

1 fraudulent verifications of employment and verifications of  
2 deposit. We have heard about that both on direct and cross.  
3 That was rampant throughout this conspiracy.

4 Your Honor, I could continue, but I think it might be  
5 a waste of the Court's time. Certainly we have presented  
6 evidence on those exact means and methods of the conspiracy.

7 In terms of proving her membership or her agreement,  
8 we have had an awful lot of testimony about that. Rocio  
9 Benavides has talked about that. David Levy has talked about  
10 that. There has been testimony that has established that Ramos  
11 was part of this conspiracy at a later point in time in 2007.

12 And then Vilchez herself, Rosie Vilchez has not been  
13 absent from this trial other than in body. There has been  
14 numerous testimony about many transactions that involved Rosie  
15 Vilchez.

16 And in particular, Your Honor, there is evidence and  
17 documents submitted about loans that Rosie Vilchez herself  
18 obtained from the defendant. Which you can see on Government's  
19 Exhibit 10-B.

20 And looking at the 1003 annualized income, you can  
21 see that the income goes all over the place in the manner of a  
22 couple months.

23 Added to the fact that the defendant was profiting  
24 greatly from these commissions and from commissions that she  
25 was getting from Vilchez & Associates' clients, I think there

1 has been a clear connection, a clear establishment of a  
2 conspiracy between the defendant and Rosie Vilchez.

3 THE COURT: Okay. Go on and talk about whether or  
4 not Cardinal Bank is the proper entity to identify in the  
5 substantive counts. You have got this Ninth Circuit case --

6 MS. MARTINEZ: Count 14, Your Honor? Are you  
7 reserving counsel's argument with respect to Count 14?

8 THE COURT: I was talking about 11 through 16 and --

9 MS. MARTINEZ: 11 through 16.

10 THE COURT: -- 18 through 25. If you want to do 14  
11 first, that's fine.

12 MS. MARTINEZ: Whatever you prefer, Your Honor.

13 THE COURT: Well, I am thinking about the Cardinal  
14 Bank bank issue.

15 MS. MARTINEZ: I will jump right to then, Your Honor.

16 Your Honor, there is actually a reasonable amount of  
17 case law that is instructive on this point. We had testimony  
18 from Chris Bergstrom, who was an employee of Cardinal Bank, the  
19 Chief Credit Officer of Cardinal Bank, and he established a  
20 number of facts that are relevant to this legal question.

21 I am going over them just quickly. Not everything  
22 that he said, but the ones that I have highlighted in my notes.  
23 He testified that George Mason Mortgage is a subsidiary of  
24 Cardinal Bank and has been since July of 2004. All the  
25 transactions that we have been talked about are after July of

1 2004 during this trial.

2 THE COURT: Shared some directors. They have a close  
3 association, clearly.

4 MS. MARTINEZ: Yes, Your Honor. He testified that  
5 George Mason Mortgage's profit and loss affected Cardinal Bank.

6 He testified that Cardinal Bank is FDIC insured and  
7 regulated. And that because of that, regulators examine the  
8 books and records of both Cardinal Bank and George Mason  
9 Mortgage.

10 He testified that the George Mason loan funds, the  
11 funds that were used to fund these loans that were at issue in  
12 this case, came from Cardinal Bank through a warehouse line of  
13 credit. And those funds were wired out to pay for the loans,  
14 and that came from that line of credit.

15 And then when investors purchased the loans, the  
16 money went back through the line of credit back to Cardinal  
17 Bank. There is a direct financial effect there.

18 He also testified that wasn't an immediate  
19 turn-around. There was a 30 to 60-day delay between the draw-  
20 down on the line of credit and the sale to the investor banks.

21 In addition to that, he testified that if George  
22 Mason is forced to buy back a loan from an investor, it affects  
23 George Mason's bottom line. Which in turn affects the bottom  
24 of Cardinal Bank.

25 Your Honor, if I could direct you to just a couple

1 cases that are instructive on this case. First let me address  
2 the case, the Ninth Circuit case that counsel raised. Which is  
3 U.S. versus Bennett. In that case -- and the citation is 621  
4 F.3d 1131. In that case, in that Ninth Circuit case, the Court  
5 found that because the Government relied solely on Equicredit's  
6 starts as a wholly-owned subsidiary and presented no evidence  
7 indicating what kind of parent/subsidiary relationship actually  
8 existed, any inference drawn from Equicredit's wholly own  
9 subsidiary status would be impermissible speculation.

10 That is clearly not the case here. We have had ample  
11 testimony.

12 And so, I would suggest that Your Honor would find it  
13 helpful to consult U.S. versus -- I am not sure how to  
14 pronounce it, but it is B-o-u-y-e-a. And that is a Second  
15 Circuit case, 152 F.3d 192. In that case, the same issue was  
16 at stake. There was a mortgage company that was a wholly-owned  
17 subsidiary of an FDIC insured bank.

18 And in that case the Second Circuit went through the  
19 types of information that were presented in the trial that  
20 allowed them to conclude that the affect on the wholly-owned  
21 subsidiary did in fact affect the parent company.

22 The evidence listed there included -- well, similar  
23 things that were included here. Including shared officers and  
24 directors. Including a direct effect, financial effect when  
25 the subsidiary is affected.

1           And Your Honor can certainly consult that case as  
2 well. But I would argue that that case is much more  
3 instructive than is this Ninth Circuit case where the  
4 Government apparently failed to introduce any of that evidence.

5           THE COURT: Go on to Count 14 then, unless you want  
6 to give me any other cites. I am going to reserve on this and  
7 look at the case law.

8           MS. MARTINEZ: Absolutely. Your Honor, I would also  
9 direct you to U.S. versus Walsh, which is a First Circuit case.  
10 And that is 75 F.3d 1.

11           And then I would direct you as well to another First  
12 Circuit case, which is U.S. versus Brandon. And that's 17 F.3d  
13 409. I believe all of those are useful in this particular  
14 analysis.

15           THE COURT: Okay, thank you.

16           All right, address Count 14, if you would.

17           MS. MARTINEZ: Yes. Count 14, I believe that the  
18 issue that counsel raised with respect to Count 14 is which  
19 bank was underwriting the loan.

20           And the testimony that we had at trial from two  
21 underwriters, primarily the underwriters, but the processors in  
22 essence as well, was that income was always material. And  
23 although they were certainly talking about the underwriting  
24 that was done with Cardinal Bank and with -- pardon me. And  
25 with -- well, with Cardinal Bank specifically and with

1 Countrywide, sorry, that was the word I was searching for, they  
2 also talked more generally.

3 And these are folks who have been underwriters for  
4 years and years and years and have worked in a number of  
5 different banks. And I believe that viewing the evidence most  
6 favorably to the Government, as is proper at the Rule 29, the  
7 jury can certainly conclude from that testimony that it's  
8 always important that the income be truthful, and that the  
9 income always affects whether or not the loan is granted. I  
10 think that is a very reasonable conclusion to take from that  
11 testimony.

12 And so, I would submit that despite the existence of  
13 a different bank underwriting, which I admit I am not  
14 completely sure whether or not the testimony established that,  
15 but I am happy to give that point to counsel, even assuming  
16 that that's true, I think that there is more than enough  
17 testimony to allow a reasonable jury to conclude that in fact  
18 income, false income in Count 14 was material.

19 THE COURT: Okay. All right, thank you.

20 All right. Well, I will look at whether Cardinal  
21 Bank is the proper institution to have been identified.

22 It's a loose conspiracy. And the Government, as Mr.  
23 Davis has highlighted, has continued to -- has decided in its  
24 presentation to veer from the overt acts identified. But I  
25 think that the testimony of several witnesses about Vilchez &



1 Associates, their association with Vilchez & Associates, their  
2 work with the defendant during their time with Vilchez &  
3 Associates and then having gone off on their own, is sufficient  
4 to establish the facts necessary to keep the conspiracy count  
5 in the case.

6 So, I will not deny Count 1, the Rule 29 motion. I  
7 will deny the motion to dismiss Count 1.

8 And I will look at 14, and 11 through 16, and 18  
9 through 25 after listening to argument with counsel. We will  
10 move forward as if they will remain in the case. And actually  
11 we will look at that tomorrow and I will get you an answer  
12 tomorrow on those as we are not sitting.

13 So we will be ready Monday at 9 a.m. to begin your  
14 case, is that right?

15 MR. DAVIS: Yes, Your Honor.

16 THE COURT: Okay. Joe, let's bring our jury in just  
17 so I can tell them not to do anything that they will regret.

18 NOTE: At this point the jury returns to the  
19 courtroom; whereupon the case continues as follows:

20 JURY IN

21 THE COURT: All right. Please be seated.

22 The Government has rested their case, and the  
23 defendant's case will begin Monday at 9 a.m. with their  
24 witnesses and testimony.

25 As I said many times now, it's very important that

1 you not do any investigation, or research, or talk to anybody  
2 about the case, but just instead enjoy the workday tomorrow, I  
3 assume, and then the weekend. And we will see you on Monday  
4 morning at 9 o'clock.

5 Thank you very much. Have a good weekend.

6 NOTE: At this point the jury leaves the courtroom;  
7 whereupon the case continues as follows:

8 JURY OUT

9 THE COURT: Okay. Anything else tonight?

10 MR. DAVIS: Nothing, Your Honor. Thank you.

11 THE COURT: All right.

12 MS. MARTINEZ: Have a nice weekend, Your Honor.

13 THE COURT: Same to you all. We will see you at  
14 9 a.m. on Monday morning.

15 All right. We are in recess.

16 NOTE: The May 1, 2014 portion of the case is  
17 concluded.

18 -----

19

20

21 I certify that the foregoing is a true and  
22 accurate transcription of my stenographic notes.

23

24

25

/s/ Norman B. Linnell  
Norman B. Linnell, RPR, CM, VCE, FCRR